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Provisional summary record of the 26th meeting
Held at Headquarters, New York, on Wednesday, 30 September 2009, at 3 p.m.

Chairman: Mr. Urbina ..... (Costa Rica)

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General debate (*continued*)

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The meeting was called to order at 3.05 p.m.

General debate (*continued*)

1. **Mr. Wolff** (United States of America) said that the danger posed by nuclear, biological and chemical weapons had not ended with the cold war, but had changed: the spectre of global nuclear annihilation had receded, but the risk of the use of weapons of mass destruction had increased.

2. The United States was committed to establishing a voluntary fund to help provide technical support and expertise for the implementation of the resolution and would contribute to such a trust fund once it was established, provided it contained effective transparency and accountability mechanisms. Such a fund could mobilize donors to help strengthen national export laws and detection systems. More bilateral assistance was needed, and a voluntary trust fund could expand multilateral efforts while also bringing more coordination and effectiveness to national assistance efforts.

3. Full implementation was essential for the simple reason that proliferators sought out the weakest links, whether they were poorly secured materials, unguarded borders, or judicial systems too frail to prosecute perpetrators. Any gap in the common defence was a threat to all States.

4. Member States had the sovereign responsibility to regulate their own national commerce and financial systems and to monitor and control their own exports. At the same time, the obligations established by Security Council resolution 1540 (2004) should be seen as an operating standard. The regional workshops had demonstrated Member States' commitment to the non-proliferation goals the resolution set, and should strengthen the tools and mechanisms provided for in it, while recognizing that a "one size fits all" approach to capacity-building would not suffice.

5. The United States welcomed the regional outreach effort. More than two dozen regional and intergovernmental organizations were involved in effective non-proliferation activities. The Group of Eight Global Partnership against the Spread of Weapons and Materials of Mass Destruction should be expanded to include activities contributing to the implementation of the resolution and extended beyond 2012 to address global threats of weapons of mass destruction. His Government had designated a full-time coordinator for the work of the Committee and urged other States and organizations to do the same.

6. His Government's efforts to implement Security Council resolution 1540 (2004) also supported activities carried out pursuant to treaties such as the Treaty on the Non-Proliferation of Nuclear Weapons, the Biological Weapons Convention and the Chemical Weapons Convention, as well as efforts by other non-proliferation groups and arrangements.

7. The Committee's work should be more inclusive so that it could benefit from broader input. His delegation welcomed thoughts on how the Committee's experts could work independently but effectively with the two Security Council counter-terrorism committees and other relevant bodies and partners. Security Council resolution 1540 (2004) could become the centrepiece of renewed global cooperation on non-proliferation. A better-coordinated, better-resourced Committee would demonstrate Member States' commitment to a safer and more secure world.

8. **Mr. Örnéus** (Observer for Sweden), speaking on behalf of the European Union, said that Security Council resolution 1540 (2004) provided a strong legal basis for the European Union's diplomatic and financial efforts to tackle proliferation. The European Union fully supported the clearing-house role of the Committee in matching assistance requests with suitable offers.

9. The European Union was seeking full compliance with the resolution by its member States and by third countries, including through the European Strategy against the Proliferation of Weapons of Mass Destruction. The European Union's new lines for action focused on very concrete action-oriented projects to be undertaken by the end of 2010.

10. Certain provisions of the resolution were being implemented through European legislation, including efficient export controls, which were a key tool for preventing proliferation. A Council Regulation setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items had entered into force in August 2009, and was directly applied in all European Union member States.

11. In line with the European Union Strategy and the resolution, the revised regulation provided a legal basis for enhanced information exchange and the setting up of an online system for sharing information on denials.

It also prohibited the transit of non-Community dual-use items when there was a serious risk of diversion and provided for controls on brokering of such items. Before the end of 2009, the European Union would adopt an action plan of internal measures to prevent, detect and respond to threats and risks relating to chemical, biological, radiological or nuclear materials.

12. With regard to providing assistance to third countries, in May 2008 the European Union had adopted a second joint action aimed at strengthening the skills of third countries' State officials involved in the export control process. It was being implemented by the United Nations Office for Disarmament Affairs and included co-funding for six regional workshops, four of which had already taken place. The European Union had also implemented joint actions in support of, inter alia, the Chemical Weapons Convention, the Biological and Toxin Weapons Convention and the International Atomic Energy Agency.

13. In addition, the European Union Instrument for Stability provided cooperation to third countries in support of the Strategy. The objective was to develop a strong regional approach, in line with the requirements for implementation of the resolution, by creating regional centres of excellence in partnership with key regions. Close coordination with the Committee and with major partners would maximize synergies and improve planning. The next stage could be preparation of national action plans for implementation of Security Council resolution 1540 (2004).

14. The European Union's collective experience in outreach and the provision of assistance had shown that supporting States' implementation of their obligations under the resolution would be a long-term process. Improvement was possible in a number of areas, including coordination of assistance provided by donors and of the exchange of information, and in ensuring that assistance workshops addressed all elements of the resolution, including support for establishing priorities and training of dedicated national staff. The creation of a permanent database of sectoral experts that the Committee could draw upon would enhance the assistance provided to requesting States. Assistance programmes could benefit from focusing on specific areas in order to offer the necessary level of quality.

15. **Mr. de Rivière** (France) said that Security Council resolution 1540 (2004) was a specific and appropriate response by the Security Council to an urgent threat. However, that did not exclude action being taken in other forums to promote the same cause.

16. Full implementation of the resolution was imperative for collective security, yet there were many areas where implementation was weak. Entire sectors were not covered, particularly the biological field, where terrorists could potentially cause the most damage. There were gaps in specific activities, with notable weaknesses in relation to criminalization of the financing of illicit activities and complicity in them, transport of prohibited goods and vectors. There was a lack of implementation reports from specific geographical regions. The opposition shown to the participation in the comprehensive review of the Australia Group and the International Organization of la Francophonie was unfortunate, as their contributions could have been very useful.

17. France had adopted stringent measures, including a Government plan to suppress proliferation flows and an instruction to raise the awareness of ministries concerning efforts against proliferation. Export controls on dual-use goods had been reorganized and draft legislation to strengthen legal measures to counter proliferation had recently been approved and was under consideration by Parliament.

18. His Government recommended that the Committee strengthen its assistance activities by fulfilling its mandate of matching offers and requests for assistance. The Committee should ensure that whenever a bilateral visit between a potential supplier and a requester of assistance occurred, the supplier was aware of the provisions of Security Council resolution 1540 (2004) and the kind of assistance that could be offered.

19. It was also time to begin country-specific visits, as authorized by Security Council resolution 1810 (2008), with full respect for State sovereignty. All States and international organizations should allocate resources for such visits if possible and more experts should be made available. Lastly, it was important to reflect on how to relate assistance to the implementation of Security Council resolution 1540 (2004) with more general support for governance.

20. **Ms. Juul** (Observer for Norway) said that the previous week's unanimous adoption of Security Council resolution 1887 (2009) had sent a strong message that proliferation of nuclear weapons was a

threat to international peace and security and that the safest course of action was to abolish those weapons. Norway welcomed the United States initiative to host a Nuclear Security Summit in Washington in April 2010. The outcome of the Summit would facilitate consensus at the 2010 Nuclear Non-Proliferation Review Conference and contribute to implementation of Security Council resolution 1540 (2004).

21. It was imperative for individual States to implement and enforce national export control regulations on the basis of international standards. Implementation of the resolution not only contributed to a safer world for all, but also facilitated development of the peaceful uses of nuclear energy and realization of the full potential of article IV of the Non-Proliferation Treaty, article X of the Biological Weapons Convention and article XI of the Chemical Weapons Convention.

22. National Governments were responsible for establishing effective domestic controls, but might need external assistance for developing and enforcing national legislation. Norway appreciated the efforts made by the Committee and the United Nations Office for Disarmament Affairs in that area, and would continue its long-standing support for activities promoting the implementation of Security Council resolution 1540 (2004).

23. In that context, new approaches to implementation should be identified. National ownership and commitment were crucial, and Member States should indicate to their national actors how implementation could contribute to broader national development goals. National action plans or road maps were essential for implementation and for assistance requests, and it was also important to engage the private sector. Additional sharing of information and lessons learned should be encouraged, including information on the excellent work of some regional organizations.

24. **Mr. Okuda** (Japan) said that his Government valued the recent adoption of Security Council resolution 1887 (2009) on nuclear proliferation and disarmament, in which the Security Council had reaffirmed the need for full implementation of Security Council resolution 1540 (2004). The international community was seriously concerned that sensitive materials and technology could fall into the hands of countries or terrorists that were aiming to develop weapons of mass destruction. In Asia, the development and enhancement of the non-proliferation regime was regarded as an urgent regional issue. Regional and interregional cooperation should be enhanced in order to address proliferation challenges.

25. His Government hoped that non-reporting countries, which amounted to one sixth of all Member States, would be able to present their national reports to the Committee soon. Member States should share additional information which would be of benefit in identifying actions for enhanced cooperation. In addition to establishing a legal framework and national institutions, Member States should ensure strict enforcement of the pertinent laws and regulations.

26. His Government had been making capacity-building efforts that would facilitate implementation of the resolution, with a particular focus on Asian countries. As the threat of proliferation in the Asian region remained strong, Japan would continue its cooperation in the region and with the larger international community.

27. Japan also hoped that the Committee would further strengthen cooperation with international regimes on non-proliferation, including export control regimes. In order to ensure peace and security, the international community should renew its efforts to address individual problems. Japan remained committed to work with the Committee and the international community for fuller and more effective implementation of the resolution.

28. **Mr. Barbalić** (Observer for Bosnia and Herzegovina), speaking also on behalf of the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, said that his Government and the Organization had co-organized the "International Seminar on National Implementation of Non-Proliferation Obligations: the OPCW as an Example of Effective Assistance in National Implementation of the Chemical Weapons Convention". The Czech Republic had provided financial support for the Seminar, which had been attended by representatives of all countries in the region, a number of international organizations with mandates relevant to the theme, intergovernmental organizations, industry, non-governmental organizations, academia and civil society.

29. The participants had discussed examples of how national implementation measures could be developed

and put into action and how assistance could be provided in an effective manner to countries requiring it. They had also learned a great deal about the efforts undertaken by Bosnia and Herzegovina and other States in the region to put into place effective measures to counter terrorism and the proliferation of weapons of mass destruction. The Seminar had contributed to greater recognition of the fact that Security Council resolution 1540 (2004) concerned all States, not only those possessing materials and technologies relevant to such weapons.

30. A proposal had been put forward for a pilot project to address those issues in the context of the Western Balkans region: the Implementation Programme against CBRNe Terrorism (IPACT), in order to develop a more integrated approach to counter-terrorism and the non-proliferation of weapons of mass destruction. Bosnia and Herzegovina would act as the pilot country, but the methods and approaches developed would also be evaluated for their utility in a wider regional context, and potentially for other regions. Specific measures for a national strategy would be developed and implemented in partnership with all organizations and agencies that were working towards effective national implementation in their respective fields of responsibility and competence. Countries in the region would be closely involved in a discussion of approaches and practical results, information exchange and experience-sharing. The project would help international agencies to better coordinate their implementation support and assistance activities.

31. Technical expertise and financial contributions provided by participating countries and by international and regional organizations were crucial to the effective development and implementation of the IPACT pilot project. Its methods, approaches and best practices for capacity-building might also be evaluated for use in other regions. He invited donors and interested partners to contribute to the project.

32. Another outcome of the Seminar was the establishment of the Steering Committee on non-proliferation issues, a national team of experts from relevant ministries and agencies to revise national policies in the sphere of non-proliferation and counter-terrorism. The team functioned as a national implementation unit.

33. The Government of Bosnia and Herzegovina was already in contact with a number of organizations to seek support for further development of the project. It was an opportunity to enhance cooperation in improving Member States' mechanisms and capacities for meeting the challenges of terrorism and proliferation.

34. **Mr Adi** (Syrian Arab Republic) said that joint national committees had been created in his country to ensure the implementation of Security Council resolutions 1267 (1999), 1373 (2001) and 1540 (2004), as well as the best forms of cooperation with the Security Council Committees established under those resolutions. Such cooperation by Member States was urgently needed in order to eradicate terrorism, including terrorist operations such as those that had for decades been carried out on Syrian territory. Those Committees, however, were discriminatory in their dealings with Member States, focusing noticeably more attention as they did on certain States or geographical groupings to the exclusion of others that were not, for instance, subjected to the same requests for the submission of reports on their implementation of terrorism-related resolutions.

35. His country had participated in numerous counter-terrorism workshops and submitted a national report to the Security Council Committee established pursuant to resolution 1540 (2004) on its implementation of that resolution. It had also been among the first to sign the Treaty on the Non-Proliferation of Nuclear Weapons and possessed no such weapons, nor any of their means of delivery or related materials. In 1992, it had furthermore signed an Agreement with the International Atomic Energy Agency (IAEA) for the application of safeguards in connection with that Treaty. By contrast, Israel was the only country in the Middle East to possess a large nuclear arsenal and also the only non-signatory to the Treaty. Moreover, its facilities were not subject to any punitive authority and it was not an IAEA Member or part of the IAEA safeguards system. Such grave failures of compliance with the Treaty merely served to indicate Israel's lack of respect for resolution 1540 (2004), for IAEA and for the international efforts for nuclear disarmament.

36. **Ms. Schilling** (Observer for the Financial Action Task Force (FATF)) said that FATF used four main tools to combat the illicit activities falling within its mandate: setting standards; assessing compliance;

applying political pressure on non-cooperative and high-risk jurisdictions; and studying typologies. It had issued internationally recognized standards — the Forty Recommendations and Nine Special Recommendations — for concrete legislative, regulatory and judicial action to prevent money-laundering and financing of terrorism. FATF members had committed at the political level to implementing those recommendations and undergoing comprehensive assessments of their compliance with them. In the case of non-cooperative and high-risk jurisdictions, political pressure was applied. FATF also published typology reports that examined the methods and techniques used in financing illicit activities.

37. FATF had supported the creation of eight FATF-style regional bodies that encouraged implementation of FATF standards in their regional membership. The FATF community included over 180 jurisdictions. The global network was reinforced by the participation of international organizations with observer status.

38. The relationship of FATF with the United Nations, and in particular the Committee, was very important for furthering the important goal of combating proliferation. The international community had only recently begun to focus on the financing component of proliferation, which was the area where FATF was able, because of its proven expertise in combating money-laundering and terrorist financing, to contribute substantially to the global effort. FATF had published a study of methods and techniques used to finance proliferation and three guidance papers to assist countries in their implementation of Security Council resolutions 1540 (2004), 1737 (2006) and 1803 (2008). The guidance papers had been welcomed and endorsed by the Security Council.

39. In November 2008, FATF had established a Project Team of interested jurisdictions, under the leadership of Switzerland and the United Kingdom, with participation from Committee members and from the private sector, to develop policy options for consideration that would further assist with the implementation of Security Council resolution 1540 (2004). The Project Team had been meeting on the margins of FATF plenary meetings, inter-sessionally, and by means of conference calls. A private sector consultation process would continue over the next few months. Ultimately, FATF would issue new guidance during 2010-2011, possibly with an amendment or supplement to its Recommendations.

40. The Project Team's recent work had focused
five broad themes. The first was legal systems a
criminalization, in which the Project Team w
working to develop a definition of proliferati
financing. Although such a definition would not
binding on other international forums or organizatio
it would facilitate FATF's development of measures
counter such activity. Some countries had chosen
criminalize proliferation financing as a speci
primary offence, while others had criminalized it
the basis of an ancillary offence to proliferation. It w
important that countries had an adequate legal basis
investigate and prosecute proliferation financing a
that different approaches to criminalization should n
hamper the countries' ability to provide mutual leg
assistance, including investigation, asset forfeiture a
extradition. Export controls offered another challeng
as not all countries had implemented them consistentl

41. The second broad theme was targeted financi
sanctions and their relationship to the framework
Security Council resolution 1540 (2004). T
resolution did not specifically require States
establish an asset-freezing regime, but so
jurisdictions had implemented national target
sanctions as a means of meeting the finance-relat
obligations it established. FATF had developed a gre
deal of expertise in that area through its developme
of standards and guidance to assist countries
implementing their obligations pursuant to Securi
Council resolutions 1267 (1999) and 1373 (2001).

42. The third broad theme was responsibilities f
financial institutions in detecting and preventi
proliferation financing. The vigilance exercised
financial institutions over their customers' activiti
was a fundamental element of measures again
money-laundering and terrorism financing. FATF w
considering, in consultation with the private secto
how such vigilance might practically be used
counter proliferation financing.

43. The fourth theme was information flows. T
Project Team was considering how information held
financial institutions might be relevant to t
investigation and prosecution of proliferation financi
and how that information might be shared wi
Government authorities. The fifth theme w
awareness-raising and information sharing, bo
domestically and internationally.

44. The work of FATF and the United Nations was complementary, as both were pursuing the common objective of preventing abuse of the global financial system for financing the activities of criminals trafficking in weapons of mass destruction. In pursuing those objectives, FATF sought to assist jurisdictions in implementing their obligations pursuant to relevant United Nations conventions and Security Council resolutions and to ensure that its work did not duplicate or compete with other efforts, including those of the United Nations. The Committee's ongoing participation in FATF's work on proliferation financing was therefore imperative. FATF had benefited from the input of experts from the Committee and hoped that such participation would continue in the future.

45. Awareness-raising and outreach was another key area. The United Nations was uniquely placed to reach those States that were not members of the FATF network. For example, Security Council resolution 1803 (2008) welcomed the guidance issued by FATF to assist States in implementing their financial obligations under Security Council resolution 1737 (2006). Such endorsement was helpful in raising the awareness of jurisdictions.

46. FATF also supported technical assistance and was very interested in the review currently being conducted by the Committee. The fight against proliferation financing was a multidimensional and truly global endeavour. Close cooperation and collaboration with the international community was essential. There was a concrete synergy between the work of FATF and the Committee and FATF attached great importance to their relationship.

47. **Mr. Tarar** (Observer for Pakistan) said that the follow-up mechanisms of Security Council resolution 1540 (2004) must be made more inclusive, transparent and balanced in terms of the responsibilities of States and the international cooperation available to them. All States must have an equal voice in matters relating to implementation of the resolution.

48. Following the adoption of Security Council resolution 1540 (2004), Pakistan had established a task force to review its national implementation, identify areas for improvement and make recommendations for the adoption of new regulatory and legislative instruments and enforcement mechanisms. Pakistan had submitted to the Security Council Committee established pursuant to the resolution three national reports in which it described specific action taken between 2005 and 2008 on the basis of the task force's recommendations, including: the adoption in 2004 of the Export Control on Goods, Technologies, Material and Equipment related to Nuclear and Biological Weapons and their Delivery Systems Act; the notification in 2005 of national control lists of goods, technologies, materials and equipment related to nuclear and biological weapons and their delivery systems, to be subject to stringent export controls; the establishment in 2006 of the Strategic Export Control Division to streamline the implementation of export controls and license the export of items on national control lists; and the establishment of an oversight board to independently review implementation of export controls.

49. Pakistan had also taken measures related to the safety and security of radioactive and nuclear materials and related facilities. Specifically, in 2006, the Government had approved a Nuclear Security Action Plan, which aimed at strengthening the safety and security of nuclear and radioactive materials and facilities containing such materials, preventing and detecting illicit trafficking in nuclear and radioactive materials, and responding to incidents of illicit trafficking and nuclear and radiological security emergencies. The Pakistan Nuclear Regulatory Authority was implementing the Action Plan with the cooperation of IAEA and had adopted a body of national regulations covering various aspects of nuclear safety and security. Adherence to such standards was a prerequisite for the licensing of any operation involving nuclear or radioactive material. Pakistan was also participating in the IAEA Illicit Trafficking Database and voluntarily subscribed to the IAEA Code of Conduct on the Safety and Security of Radioactive Resources. In 2007, the Government had announced its participation in the Global Initiative to Combat Nuclear Terrorism by endorsing the related Statement of Principles. Other relevant initiatives included the development of biosafety guidelines, the establishment of several committees for the monitoring and implementing of biosafety practices, and an ordinance passed in 2000 on implementation of the Chemical Weapons Convention.

50. In addition, Pakistan was involved in a number of international activities, including training and assistance in export control issues; regular interaction with international export control regimes; bilateral

consultation with countries on non-proliferation and export control issues; and participation in the Container Security Initiative.

51. Pakistan had identified several priority areas for future action: notification of export control licensing rules and procedures; national and bilateral programmes for the further training of export control licensing officers; training of enforcement officials; and awareness-raising with regard to recent improvements in export control laws and regulations and the need for compliance at all levels. Pakistan stood ready to offer assistance to requesting States on the use of radiation detection equipment for the prevention of illicit trafficking in nuclear and radioactive material.

52. **Mr. Laborde** (Observer for the Counter-Terrorism Implementation Task Force (CTITF)) said that the work of the Security Council Committee established pursuant to resolution 1540 (2004) was clearly linked to the United Nations Global Counter-Terrorism Strategy, which underscored the need for international cooperation to improve the mechanisms and policies of Member States aimed at preventing the illicit transit or acquisition of deadly material and coordinating a response to a terrorist attack involving weapons of mass destruction. In keeping with those goals, CTITF had established a Working Group on Preventing and Responding to Weapons of Mass Destruction Attacks, in which the participation of the Committee was crucial to developing a coordinated response to potential attacks and compiling existing practices and lessons learned.

53. CTITF could also contribute significantly to the work of the Committee. The variety of organizations represented on CTITF provided the Committee with an opportunity to engage more creatively with Member States with regard to implementation of the resolution, thereby contributing to the Committee's broader work in international peace and security. Innovative approaches included greater emphasis on the preventive aspect of counter-terrorism: the Committee might benefit from studying and replicating already successful initiatives in that area. By the same token, direct engagement with other members of CTITF could serve to promote implementation of the resolution. The presence of a representative of the Committee's Expert Group at the upcoming CTITF retreat in Vienna was critical in that regard.

54. **Mr. Vilović** (Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism) said that while the Security Council Committees established pursuant to resolutions 1373 (2001) and 1540 (2004) had distinct mandates, they both had been established in response to global security threats and, unlike most sanctions committees, which dealt with a specific country or measure, they maintained a global outlook. The ongoing work of the two Committees to implement their respective resolutions was, moreover, mutually reinforcing, and contributed to reducing the threat of proliferation and terrorism, in particular, that involving weapons of mass destruction.

55. The Committees had adopted correlated approaches to monitoring implementation of the resolutions by Member States and enhancing their dialogue with them: the Counter-Terrorism Committee had developed a table, similar to the table known as the "matrix" used by the Security Council Committee established pursuant to resolution 1540 (2004), referred to as the "preliminary implementation assessment", which enabled the Committee to focus on implementation rather than the mere collection of reports, and to increase the consistency and transparency of its analysis of all Member States. The Counter-Terrorism Committee had prepared such an assessment for virtually all Member States and a second review was under way.

56. Implementation of the resolutions required long-term commitments, as analysis by both Committees showed that no country had fulfilled all the requirements of either resolution 1373 (2001) or resolution 1540 (2004). The sharing of experience with regard to the usefulness of such monitoring tools as the preliminary implementation assessment and the matrix between the Committees and their experts would enable them to focus on the remaining areas of partial implementation of the resolutions, especially within the context of the common strategies adopted by the Counter-Terrorism Executive Directorate and the expert groups of the Security Council Committees established pursuant to resolutions 1540 (2004) and 1267 (1999).

57. While the primary responsibility for implementing resolutions 1373 (2001) and 1540 (2004) lay with Member States, regional and subregional organizations were instrumental in developing tailor-made implementation initiatives, including by

coordinating with other stakeholders in the region and relevant United Nations entities. Recognizing their contribution in terms of capacity-building assistance and promotion of the ratification and implementation of regional and subregional counter-terrorism and non-proliferation instruments, the Counter-Terrorism Committee had organized a series of special meetings involving over 70 international, regional and subregional organizations.

58. **Mr. Mayr-Harting** (Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities) said that it was essential to maintain vigilance over the continuing risk of terrorist attacks using chemical, radiological and nuclear material. Success would depend not only on proper implementation of the arms embargo measures contained in Security Council resolution 1267 (1999) and its successor resolutions, but also on the maintenance of close working relations among the three Security Council Committees that dealt with terrorism and their expert groups.

59. The three expert groups in question had greatly enhanced cooperation in recent years. In 2006, they had devised a common strategy to deal with States that had fallen behind on reporting to the Committees, which had led to increased reporting and a better understanding among States of the Committees' different mandates. In 2009, the three expert groups had presented another common strategy on engaging with international, regional and subregional organizations, entities and agencies with a view to increasing coherence and coordination in the counter-terrorism efforts of the three Committees in their relationships with such organizations. The expert groups were currently devising a joint strategy on the provision of technical assistance.

60. The groups continued to contribute to and coordinate their work within the framework of CTITF; such cooperation would be facilitated by the co-location of the expert groups and CTITF. In addition, in 2005, the chairmen of the three Committees had agreed to give joint briefings to the Security Council every six months. Above all, it was essential that the United Nations provide a global framework to combat terrorism and proliferation, in compliance with all obligations under international law.

61. **Mr. Puri** (Observer for India) said that India had taken steps to strengthen its legislative and regulatory mechanism to control weapons of mass destruction, including by enacting in June 2005 the Weapons of Mass Destruction Act, which criminalized a range of unlawful activities relating to weapons of mass destruction and their means of delivery. In addition, outreach activities were undertaken regularly to raise awareness in the industrial sector about Security Council resolution 1540 (2004), and training programmes were offered to officials working in the administration of dual-use goods.

62. India had recently submitted an update to its first report and related addenda on implementation of Security Council resolution 1540 (2004), focusing on the developments of the past three years and the draft matrices circulated by the Committee. The Government of India supported efforts to prepare guidelines for handling assistance requests by countries and to find means of addressing the most common gaps in implementation of the resolution. It was important that those activities be carried out only at the request of a country and bearing in mind national capacities, procedures and systems. India stood ready to assist requesting countries bilaterally in capacity-building and in the fulfilment of their obligations under the resolution. Furthermore, the involvement of regional organizations in the implementation of the resolution should be considered carefully, as the expertise required might not be available at the regional or subregional level.

63. **Mr. Ben-Shaban** (Libyan Arab Jamahiriya) said that, notwithstanding the substantial progress achieved towards the implementation of Security Council resolution 1540 (2004), an intensification of efforts by Member States to modify their national legislative frameworks, including with regard to the prohibition of activities relating to nuclear, biological and chemical weapons and their means of delivery, remained necessary. The establishment of new institutional bodies to facilitate communication among governmental authorities concerned with the implementation of the resolution was also necessary, as was the strengthening of measures to account for, secure and physically protect related materials. The system for monitoring the importation of such materials also required enhancement.

64. Another area of vital importance was the pursuit of ever more fruitful cooperation between the

Committee and international, regional and subregional organizations, which should play a bigger role in assisting their member States to implement resolution 1540 (2004). The Committee should also seek to develop its function as a focal point for information exchange with a view to providing assistance to States for the implementation of the resolution by matching requests for such assistance with offers made, strengthening dialogue with and among States in order to determine their assistance needs and identify projects designed to meet those needs, and raising awareness of existing financial mechanisms, as well as promoting their optimum use and examining options for their development with a view to capacity-building for implementation. In short, the comprehensive review provided an excellent opportunity for Member States and participating governmental and non-governmental organizations to air their views as to the best means of strengthening full implementation of resolution 1540 (2004), the aim of that exercise being to provide a clear picture of the risks and challenges involved and of means of addressing them.

65. **Mr. McNee** (Observer for Canada), noting that Canada had submitted three reports on its implementation of Security Council resolution 1540 (2004), said that the wide-ranging requirements of the resolution might prove challenging for some States. He therefore supported the resolution's emphasis on the need to provide assistance in response to specific requests by States lacking legal and regulatory infrastructure, implementation experience or resources. To that end, Canada had funded an awareness-building workshop on the resolution in the Dominican Republic in 2008; it had also recently supported a workshop on export controls and maritime security in Jamaica. Both workshops had been attended by representatives of a number of other Caribbean countries. Canada remained willing to consider specific requests for assistance.

66. The identification of the right specialists for the provision of assistance was critical. Assistance must move from general awareness-building to addressing the specific aspects of the resolution. He proposed the creation of an experts' template, to be organized by the key paragraphs of the resolution. Member States could contribute the names and details of their officials with specialized knowledge in the areas covered by each paragraph. Canada stood ready to discuss the format and modalities of such a template with the Expert Group.

67. Referring to paragraph 22 of Security Council resolution 1887 (2009), he recognized that the United Nations Trust Fund for Global and Regional Disarmament Activities had been helpful in channelling resources into capacity-building for the implementation of Security Council resolution 1540 (2004). Given the significant gaps between the obligations of Member States under the latter resolution and actual implementation, however, the Committee should continue to examine other options for funding mechanisms, including a dedicated voluntary fund.

68. Canada strongly supported the invitation extended to States in Security Council resolution 1673 (2006) to share lessons learned and to explore programmes to implement Security Council resolution 1540 (2004) with international, regional and subregional organizations. Upon assuming the presidency of the Group of Eight in 2010, Canada intended to deepen the dialogue between the Committee and the Group of Eight to ensure States' capacity to implement the resolution.

69. **Mr. Kim** Bonghyun (Observer for the Republic of Korea) said that the Security Council Committee established pursuant to resolution 1540 (2004) could achieve further success in combating the combined threat of terrorism and proliferation of weapons of mass destruction through close cooperation with the Security Council Committees established pursuant to resolutions 1267 (1999) and 1373 (2001), and through the sharing of lessons learned with international and regional organizations and export control regimes.

70. Noting that reporting had increased significantly, he commended the outreach activities of the Committee and Member States; it was now time to shift the focus from reporting to implementation. In that regard, progress was required in the effective use of existing funding mechanisms. Further cooperation among Member States in terms of information exchange and capacity-building was also key to full implementation of Security Council resolution 1540 (2004).

71. The unique role of the resolution made its implementation indispensable to international peace and security. That was most clear in the area of nuclear proliferation, as the international community faced two conflicting developments: a growing need for nuclear

energy amid climate change and energy crises, and a likely increase in nuclear proliferation and insecurity.

72. **Mr. Paschalis** (Observer for South Africa) said that ensuring adequate reporting remained a major challenge; he encouraged the Committee to continue working with the tools at its disposal to secure a satisfactory reporting base, without which it would be difficult to draw meaningful conclusions. Measures to achieve the resolution's objectives should continue to be taken in accordance with a number of parameters, in accordance with the purposes and principles of the Charter of the United Nations. Efforts to move beyond the formulation of "appropriate effective" measures would give rise to even more complex questions, including what specific measures should be required and who would judge their appropriateness and effectiveness.

73. Issues such as convergence, common interpretation, compatibility and the addressing of gaps in implementation were best addressed within the multilateral framework, which would ensure sustainable solutions with maximum ownership. It was of the utmost importance to uphold the Non-Proliferation Treaty, the Biological Weapons Convention, the Chemical Weapons Convention and other relevant multilateral instruments and to draw on the work done on the basis of those instruments.

74. Regional forums were excellent platforms for States to develop approaches to unique regional challenges, as well as for outreach activities; however, care should be taken not to create the impression that regional organizations were being used to enforce positions from outside the region in question. As for the analysis of implementation by region, South Africa was concerned about the conclusions reached regarding certain regions, including its own, as neither the matrix methodology nor the level of reporting provided a basis for such conclusions. While the issue of underreporting no doubt required attention, so too did that of real capacity constraints in the face of many acute developmental and other priorities. Some of those challenges might be addressed by, inter alia, drawing on the assistance offered by peers and mobilizing resources aimed at rendering direct material and human resource development assistance. South Africa, in addition to submitting reports to the Committee, had participated in negotiating Security Council resolution 1810 (2008) and offered assistance to other Member States.

The meeting rose at 5.20 p.m.

United Nations S/AC.44/SR.27

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Provisional summary record of the first part* of the 27th meeting (open)
Held at Headquarters, New York, on Thursday, 1 October 2009, at 10 a.m.

Chairman: Mr. Urbina ..... (Costa Rica)

Contents

General debate (*continued*)

* The summary record of the second part of the meeting, to be reconvened in the afternoon, appears as document S/AC.44/SR.27/Add.1.

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The meeting was called to order at 10.15 a.m.

General debate (*continued*)

1. **Mr. Quinlan** (Observer for Australia) said the continuing risk that weapons of mass destruction would spread to non-State actors made it urgent for Member States to meet their obligations — and particularly their reporting obligations — under Security Council resolution 1540 (2004) so that the Committee could identify gaps in domestic export controls and countries that needed assistance in order to respond to the changing security environment. The more States that publicized their implementation of the resolution, the stronger the signal to terrorists and their supporters that there were fewer and fewer places that they could use to obtain or transfer the materials and technology necessary for weapons of mass destruction.

2. Implementation must build on and complement a country's broader counter-proliferation, counter-terrorism and national security efforts. His Government had put in place enhanced national arrangements to secure chemicals and had promoted them at the regional level, including by hosting an Asia-Pacific seminar in June 2009 and inviting neighbouring countries to participate in national seminars and workshops. It facilitated the Organisation for the Prohibition of Chemical Weapons (OPCW) Open-Ended Working Group on Terrorism and, in that role, promoted effective implementation of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (the "Chemical Weapons Convention"). It also provided legal and legislative assistance and capacity-building to other countries of the region, including in the areas of border control, anti-money-laundering and countering the financing of terrorism, and was a member of a Financial Action Task Force (FATF) counter-terrorism project team.

3. Australia was an active member of all the international export control regimes; it permanently chaired the Australia Group and currently chaired the Missile Technology Control Regime (MTCR). In that regard, the participants in the regional Proliferation Security Initiative (PSI) workshop that Australia and the United States of America had recently hosted in Sydney had expressed strong support for the implementation of resolution 1540 (2004). Australia had participated in the United Nations Workshop On Implementing Security Council Resolution 1540 (2004), held in Port-Vila, Vanuatu from 29 April to 1 May 2009. His Government welcomed the Committee's engagement with regional bodies and encouraged it to expand its work within existing regional frameworks and arrangements, including export control regimes.

4. In December 2007, the Committee had agreed to receive information from a number of international, regional and subregional entities, including the Australia Group and MCTR. The Chairman had written to those regimes in order to seek assistance regarding the implementation of resolution 1540 (2004), and both regimes had subsequently established a relationship with the Committee. He therefore regretted that neither of them had been invited to contribute to the current review of the resolution.

5. **Mr. Abdelaziz** (Observer for Egypt) said that the proliferation of weapons of mass destruction posed the greatest threat to international peace and security and that, in principle, the goal should be their total elimination. Implementation of the resolution should therefore focus on the Middle East, where serious imbalances in States' commitment had hindered achievement of the goal of universal accession to the Treaty on the Non-Proliferation of Nuclear Weapons (the "Nuclear Non-Proliferation Treaty"). He welcomed recent nuclear disarmament initiatives, including the five-point proposal that the Secretary-General had made in October 2008, and hoped that that proposal would be translated into action as quickly as possible.

6. In addition to national measures taken in implementation of the resolution, Egypt participated actively in the relevant activities of the League of Arab States and the African Union and shared its own experience with a view to providing assistance to other Arab and African countries. Various government authorities had attended the Committee's regional meetings and workshops, most recently in Doha in March 2009, and, in cooperation with the Committee and the Office for Disarmament Affairs, Egypt would host a workshop for African States, to be held in Cairo in December 2009.

7. **Mr. Mugoya** (Uganda) said that the meeting was timely in light of the current focus on non-proliferation and the adoption of Security Council resolution 1887 (2009), in which the Council had reiterated the need for full implementation of resolution 1540 (2004). In

recent years there had been greater acceptance of the resolution, primarily as a result of the Committee's provision of assistance to States. He welcomed the Committee's cooperation with regional and subregional organizations and the good working relations among the Security Council Committees established pursuant to resolutions 1267 (1999), 1373 (2001) and 1540 (2004) and among their expert bodies. However, a number of States still found it difficult to meet the Committee's reporting requirements owing to the complexity of the provisions of resolution 1540 (2004) and to their own lack of capacity.

8. **Mr. Bródi** (Hungary), speaking on behalf of the Nuclear Suppliers Group (NSG), said that the Group's participating governments fully shared the goals of resolution 1540 (2004) and stood ready to contribute to the review and implementation process. Its Guidelines for Nuclear Transfers and Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology were designed to ensure that nuclear trade for peaceful purposes did not contribute to the proliferation of nuclear weapons or other nuclear explosive devices and that international trade and cooperation in the nuclear field were not hindered unjustly. The Guidelines showed how the obligation to facilitate peaceful nuclear cooperation could be met in a manner consistent with international non-proliferation norms; thus, they complemented and were consistent with the various international, legally binding non-proliferation instruments.

9. The participating governments believed that effective export controls were an important tool for combating the threat of nuclear terrorism and had amended the Guidelines accordingly over the years. They discussed the issues of illicit procurement and trafficking and called on all States to endeavour to ensure that their exports of goods and technologies did not contribute to nuclear weapons programmes. They therefore welcomed the resolution's recognition of the importance of export controls and the Security Council's decision that all States should take domestic measures, including end-user controls, to prevent the proliferation of such weapons.

10. The NSG was prepared to support States' efforts to implement the guidelines. The Troika of its past, present and incoming Chairs worked to strengthen contacts with non-participating governments and international organizations within the framework of the Group's existing outreach programme, inform specific countries of its practices and promote adherence to its guidelines. Most recently, the Troika had met with non-participating governments in the margins of the fifty-third General Conference of the International Atomic Energy Agency (IAEA), held in September 2009. Those meetings had confirmed the interest in the Group's activities and the need for information-sharing, assistance and capacity-building, including in the areas of customs management and border control.

11. The NSG stood ready to render such assistance. At its nineteenth plenary meeting, held in Budapest in June 2009, the Group had adopted best-practice guides to be used by participating governments, both internally and for outreach activities, in order to address the challenges posed by the intangible transfer of technology and end-use control. The NSG licensing and enforcement handbook for officials was updated regularly and contained visual identification for the easy identification of all items on the technical lists; an outreach version could be shared with countries implementing the Guidelines.

12. On 15 October 2009, as current Chair of the Group, Hungary would organize an NSG side event in the margins of the meetings of the First Committee: a seminar on the role of export controls in nuclear non-proliferation.

13. **Mr. Argüello** (Observer for Argentina) said that his delegation was committed to the non-proliferation of weapons of mass destruction and to the development and use of dual-use technologies for peaceful purposes in the context of economic growth and sustainable development. Argentina was, to date, the only Latin American country to have become a party to the five export control regimes: the Australia Group, the Zangger Committee, the NSG, the Wassenaar Arrangement and the MTCR. His Government reviewed its domestic law constantly in order to amend it as needed. With initial support from the Department of Energy of the United States of America, it had established a technical group that trained national experts and those of other countries in the technologies used to identify sensitive products; the most recent course had included participants from Chile, Paraguay, Peru and Uruguay and observers from South Africa.

14. Effective control of dual-use technologies and materials required harmonization of legislative and operative measures at the regional level. In 2005, Argentina had helped organize two regional seminars

on implementation of the resolution and in May 2008, it had hosted an Organization of American States (OAS) seminar on the same topic. It had promoted establishment of the Southern Common Market (MERCOSUR) Working Group on Weapons of Mass Destruction, which helped States develop summary action plans pursuant to paragraph 4 of resolution 1810 (2008). In June 2009, Argentina had hosted a regional workshop on the suppression of nuclear terrorism, organized jointly with the United Nations Office on Drugs and Crime (UNODC) and the OAS Inter-American Committee against Terrorism (CICTE).

15. His Government stood ready to cooperate in the implementation of regional action plans and to share its experience in the areas of disarmament and non-proliferation. It had offered to coordinate with the Committee the holding of a workshop for Latin American countries in late 2009 in order to share their experiences and lessons learned with other subregional groups and to harmonize control standards and measures.

16. His delegation supported the constructive review of the Nuclear Non-Proliferation Treaty and was committed to preventing terrorists and international organized crime groups from acquiring nuclear materials and technologies. It hoped that the recently announced reductions of nuclear stockpiles would result in a significant reduction in such weapons and that some States would cease to view them as an expression of their ability to negotiate at the international level. His Government had specifically renounced weapons of mass destruction and hoped that other States would adopt similar policies.

17. Consideration should be given to the potential proliferation of agents and technologies that could be used to produce biological weapons, a scientific field undergoing exponential growth, since the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (the "Biological Weapons Convention"), unlike the Chemical Weapons Convention, did not provide for a compulsory verification mechanism. In addition, inconsistent application of the mechanisms designed to ensure the non-proliferation of weapons of mass destruction was an unresolved issue that should be addressed. Lastly, without prejudice to the regional implementation efforts already under way, there was a need for strengthened cooperation mechanisms that took the specific characteristics of each region into account and included periodic assessments.

18. **Mr. Gutiérrez** (Observer for Peru) said that his delegation was in favour of strengthening, and promoting universal accession to, the legally binding, multilateral disarmament and non-proliferation agreements in order to ensure that nuclear, chemical and biological substances were used for exclusively peaceful purposes. His Government was a party to the 16 international counter-terrorism instruments, including, since 29 May 2009, the Convention for the Suppression of Acts of Nuclear Terrorism.

19. Attempts by State and non-State actors, including terrorists, to obtain weapons of mass destruction made effective implementation of the resolution and the relevant conventions essential. In cooperation with the United Nations and Spain, his Government had organized a regional seminar in Lima in order to disseminate information on the measures that it had taken pursuant to resolution 1540 (2001) and to discuss avenues for potential regional cooperation. In March 2008, Peru had chaired the eighth regular session of CICTE, which had focused on cybersecurity, port security, document security, fraud prevention, money-laundering and cash couriers. Since no State was immune from terrorism, international counter-terrorism measures must be strengthened with full respect for privacy and civil liberties.

20. His delegation supported the efforts of the international community, and particularly the nuclear-weapon States, to achieve disarmament and non-proliferation through direct negotiation. The recent joint statement on disarmament and arms control made by the Presidents of the United States of America and the Russian Federation, the unilateral statement by the United States that it would ratify the Comprehensive Nuclear-Test-Ban Treaty and the adoption of resolution 1887 (2009) were encouraging steps forward.

21. **Mr. McClay** (Observer for New Zealand) said that his delegation was increasingly concerned about the link between weapons of mass destruction and terrorism. All weapons of mass destruction needed to be eliminated through legally binding multilateral instruments such as the Biological Weapons Convention, the Chemical Weapons Convention and the Nuclear Non-Proliferation Treaty.

22. His country had been involved in major outreach activities in the Asia-Pacific region as part of the

Proliferation Security Initiative (PSI) and the Global Initiative to Combat Nuclear Terrorism (GINCT). He urged the Committee to recognize the value of those initiatives to the development of counter-terrorism and counter-proliferation best practices and welcomed the participation by Committee experts in the annual Pacific Islands Forum Working Group on Counter-Terrorism, which was the principal regional counter-terrorism policy event. Along with the European Union and Norway, New Zealand had also sponsored a regional workshop held by the United Nations Office for Disarmament Affairs in April 2009.

23. International counter-terrorism frameworks needed to recognize that some obligations were onerous for small countries, in particular some of the Pacific Island States. His Government continued to work to bring its domestic legislation into line with international standards and had made ratification of all 16 international counter-terrorism instruments a priority. It maintained a strong export controls regime and made a regular practice of reaching out to the private sector in order to ensure that procedures were properly understood.

24. **Mr. Mashkov** (Russian Federation) said that his country had been directly involved in drawing up resolution 1540 (2004) and welcomed the opportunity for a comprehensive review of its status. The importance of the resolution had been reaffirmed in the joint statement issued by the President of the Russian Federation and the President of the United States of America in July 2009. He also recalled that resolution 1887 (2009), adopted at the recent Security Council summit on nuclear non-proliferation and disarmament, had called for Member States to cooperate actively with the Committee in the course of the comprehensive review.

25. Resolution 1540 (2004) established important principles and mechanisms designed to prevent weapons of mass destruction, their components and means of delivery from falling into the hands of non-State actors, particularly terrorists. To that end, full implementation of the resolution by all countries remained the most important strategic objective. However, a global monitoring system was only as effective as its weakest link; given the different levels of implementation among countries, the international community must provide appropriate assistance to those most in need of it.

26. The current open meeting provided a valuable opportunity to draw Member States' attention to resolution 1540 (2004), inform them of the status of its implementation and enhance their implementation. The outcome of the review, if successful, would help determine the future course of joint action.

27. It was important to ensure that the review process did not go beyond the framework established by Security Council resolutions 1540 (2004), 1673 (2006) and 1810 (2008) and that the Committee's agenda was strictly determined by the provisions of resolution 1540 (2004). The effectiveness of the Committee's work and the way in which it cooperated with United Nations and other bodies should also be reviewed.

28. The resolution was binding on all Member States; however, more than 30 States had yet to submit their initial reports on its implementation. The Committee must therefore continue to work with those States to ensure that they fulfilled their commitments under the resolution.

29. The threat posed by weapons of mass destruction required a global response. For its part, his Government was making a concerted effort to enhance its implementation of the resolution, including through improvements to national export control legislation and law enforcement measures. It stood ready to work with the international community, on the basis of mutual respect, to ensure the full implementation of resolution 1540 (2004).

30. **Mr. Zlauvinen** (Observer for the International Atomic Energy Agency) said that he was pleased to announce the International Atomic Energy Agency (IAEA) Nuclear Security Plan for 2010 to 2013. The Plan affirmed that the responsibility for ensuring that nuclear and other radioactive material was not used for malicious acts rested with each State and that the role of IAEA was to facilitate compliance with international instruments by providing recommendations, guidance and, upon request, technical assistance. The Plan took into account lessons learned from the implementation of previous plans. Nuclear security should be treated as a long-term effort and a work in progress, and international terrorism required an international response founded on global cooperation and established standards.

31. IAEA would continue to assist States in securing vulnerable nuclear material, improving protection of nuclear facilities, strengthening border controls and

combating illicit trafficking in nuclear and other radioactive substances. It would continue to use integrated nuclear security support plans to support individual countries' requests. Like its predecessors, the new Nuclear Security Plan complemented many provisions of resolution 1540 (2004). Its implementation would require approximately 23 million euros annually, 85 per cent of which would have to be met by extrabudgetary contributions.

32. The fifty-third General Conference of IAEA had adopted a resolution inviting the Agency's secretariat "to provide assistance to Member States upon their request in fulfilling their obligations under United Nations Security Council resolution 1540 and to the 1540 Committee, provided that such requests are within the scope of the Agency's statutory responsibilities." Security Council resolution 1887 (2009) reaffirmed the Agency's role in nuclear non-proliferation. IAEA would continue to take part in regional workshops with a view to highlighting ways in which it could assist States to fulfil their obligations under resolution 1540 (2004). He reiterated the Agency's call for harmonization of the various United Nations, international and regional counter-terrorism initiatives in order to avoid duplication of effort and noted that the new Nuclear Security Plan provided for coordination mechanisms to assist in that regard. He encouraged the Committee to advise States to seek the Agency's assistance in matters of nuclear security.

33. **Mr. Liu** Zhixian (Observer for the Organisation for the Prohibition of Chemical Weapons) said that although his Organisation (OPCW) was not a counter-terrorism body, its activities made it a natural partner for the Committee in preventing terrorists from gaining access to dangerous weapons. The Chemical Weapons Convention was the only international treaty that mandated the elimination of an entire class of weapons of mass destruction; since its adoption, over 50 per cent of the world's declared chemical weapons had been verifiably destroyed. In addition to its disarmament activities, OPCW had conducted over 1,600 industrial inspections in approximately 80 States parties to the Convention. Mindful of the fact that the instrument's value in combating proliferation depended on effective domestic implementation, OPCW had reviewed drafts of implementing measures from 127 States parties. One third of the States parties to the Convention had already informed it that they had brought their domestic regulations into line with that instrument. The work of OPCW in assisting States parties had been instrumental in making chemical weapons the area in which the implementation of resolution 1540 (2004) had achieved the most success.

34. OPCW took part in regional workshops organized by the Office for Disarmament Affairs and the Committee, as well as in national initiatives. Its technical secretariat had organized emergency response training in dozens of countries and, in accordance with its mandate, stood ready to cooperate closely with the Secretary-General of the United Nations in the event of the use of chemical weapons by a non-State party. In addition to participating in outreach activities organized by the United Nations, OPCW had helped organize three workshops on the relationship between implementation of the Chemical Weapons Convention and of resolution 1540 (2004), held in the Netherlands, Croatia and Bosnia and Herzegovina, respectively.

35. **Mr. Du Preez** (Observer for the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization) said that the 24 September 2009 Security Council summit on nuclear non-proliferation and disarmament and the ministerial Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, held on the same day, had brought the Treaty back to the forefront of the disarmament and non-proliferation agenda; prospects for its entry into force were more encouraging than they had been in many years. The Treaty's verification regime, in which States parties had invested one billion dollars, had been tried and tested, including by two explosions in the Democratic People's Republic of Korea. In addition to its primary purpose of halting the further development of nuclear weapons, the verification regime also supplemented IAEA safeguards as an indicator of a State's nuclear capacities and intentions and a warning sign of the potential diversion of nuclear weapons material and technology to non-State actors.

36. Nevertheless, threats to the nuclear non-proliferation regime had increased significantly since the adoption of resolution 1540 (2004). Increases in energy demand and concerns over climate change were encouraging more States to master the nuclear fuel cycle, which would result in the circulation of larger quantities of fissile material that would have to be kept out of the wrong hands. Many aspects of the Preparatory Commission's work in promoting the Treaty were complementary to the Committee's work

in promoting the implementation of resolution 1540 (2004). The Treaty would require States parties to take measures to penalize persons engaging in activities related to nuclear testing on their territories and to set up national focal points for liaison with the eventual Treaty Organization and with other States parties. The Organization's provisional secretariat had conducted dozens of workshops and seminars and had taken part in workshops on implementation of the resolution that had been organized by the Office for Disarmament Affairs. Both the Preparatory Committee and its provisional technical secretariat looked forward to further cooperation with the Committee in anticipation of the entry into force of the Treaty.

37. **Mr. Bylica** (Observer for the North Atlantic Treaty Organization) said that the North Atlantic Treaty Organization (NATO) had just declassified and released the Comprehensive, Strategic-Level Policy for Preventing the Proliferation of Weapons of Mass Destruction and Defending against Chemical, Biological, Radiological and Nuclear Threats that had been adopted at the Organization's 2009 Strasbourg-Kehl Summit. That document assessed the dangers posed by failure to secure nuclear, biological and chemical agents and concluded that closer international cooperation and more effective fulfilment of non-proliferation commitments were needed in order to counter that threat.

38. In the past five years, NATO had organized several non-proliferation seminars. He invited the Chairman to take part in the next such event, to be held in Warsaw on 10 and 11 December 2009. NATO had also begun to organize smaller workshops in order to focus on best practices, lessons learned and legislative measures at the regional and national levels. The first such workshop had been held in Croatia in June 2008 and a second was scheduled to be held in Azerbaijan in the spring of 2010. He would welcome any expert speakers that the Committee might be able to provide for that event.

39. NATO had opened a number of its activities to its partners, including the table-top exercise held at its headquarters in April 2009; the Chemical, Biological, Radiological and Nuclear Defence demonstration held in Namur, Belgium, and a forthcoming seminar on maritime interdiction of weapons of mass destruction, to be held from 19 to 23 October at the new NATO Maritime Interdiction Operational Training Centre in Crete.

40. **Mr. Al Habib** (Observer for the Islamic Republic of Iran) said his Government considered the acquisition, development and use of weapons of mass destruction inhumane, immoral and illegal. As a State party to all the international instruments that banned such weapons, it believed that total elimination was the most effective way to prevent non-State actors such as terrorists from acquiring them. In a statement to the Security Council delivered on 24 September 2009 (S/2009/480), his delegation had stressed that the nuclear-weapon States were obligated to comply with their legally binding commitments to work towards that goal. Non-proliferation and disarmament were mutually reinforcing and should be conducted in parallel.

41. While the Committee's establishment marked a practical step aimed at filling the gap in the existing international non-proliferation bodies, it was not clear that it had addressed the concerns of all Member States fairly and adequately. Its work should have no impact on the rights enshrined in internationally negotiated instruments such as the Nuclear Non-Proliferation Treaty, the Chemical Weapons Convention, the Biological Weapons Convention and the Statute of IAEA. Emphasis on prohibiting non-State actors' access to weapons of mass destruction and nuclear materials should not divert attention from nuclear disarmament as the highest priority of the international community.

42. As stated in its two reports to the Committee, the Islamic Republic of Iran had refrained and continued to refrain from providing support to State and non-State actors' attempts to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. Under its legal system, international instruments ratified by parliament were automatically incorporated into domestic law; a series of national laws and regulations had also been enacted in order to criminalize and establish penalties for those acts, as well as for illicit trafficking in chemical, biological and nuclear materials.

43. Failure to implement effective, non-selective nuclear disarmament measures increased the risk of proliferation, as shown by the transfer of nuclear weapon technology by certain nuclear-weapon States to States that were not parties to the Nuclear Non-Proliferation Treaty and of nuclear-weapon sharing under security arrangements with non-nuclear-

weapon States. He called for cooperation among all Member States in preventing illicit trafficking that could place those weapons in the hands of terrorists and other non-State actors.

44. **Ms. Mungwa** (Observer for the African Union) said that she welcomed the open meeting of the Committee as an opportunity for broad participation and sharing of knowledge and experience in the implementation of resolution 1540 (2004). While the member States of the African Union were fully committed to a world free of weapons of mass destruction, they were vulnerable to the reach and impact of those weapons and, despite their resource limitations, were devoting significant effort to implementing the resolution and the related African instruments, including, inter alia, the 1964 Organization of African States (OAS) Declaration on the Denuclearization of Africa and the 1995 OAS African Nuclear-Weapon-Free Zone Treaty (the "Pelindaba Treaty"), which had entered into force on 15 July 2009.

45. The Treaty set forth the guiding principles of denuclearization, disarmament and establishment of a nuclear-free zone and its three Protocols were open for ratification by specific States outside that zone. It established a legally binding obligation to refrain from developing, producing or otherwise acquiring nuclear weapons and from testing, allowing or encouraging testing, dumping radioactive waste or stationing nuclear weapons on the territory of another State party. It required States parties to maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling and prohibited armed attacks on nuclear installations within the zone. It banned research into nuclear explosive devices and required the destruction of any such device that a State party might have manufactured prior to the entry into force of the Treaty. Lastly, it expressed support for the use of nuclear science and technology for peaceful purposes; however, States parties must conduct such activities under strict non-proliferation conditions, provide assurance of exclusively peaceful use and conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance.

46. The Pelindaba Treaty was unique in that it required the establishment of a regional organization — the African Commission on Nuclear Energy (AFCONE) — not only to oversee its implementation but to promote peaceful applications of nuclear science and technology by States parties. AFCONE would act as a catalyst for cooperation among African States in the use of such applications and in environmental protection and international nuclear trade, thus becoming a clearing-house for African nuclear expertise and a regional partner for IAEA. Pursuant to article 14 of the Treaty, a conference of States parties would be convened in March or April 2010.

47. The 2004 Solemn Declaration on a Common African Defence and Security Policy classified the accumulation, stockpiling, proliferation and manufacturing of weapons of mass destruction, particularly nuclear weapons, chemical and biological weapons and unconventional long-range and ballistic missiles as external threats to continental security. The Bamako Convention on the ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, the Convention on the Preventing and Combating of Terrorism and the Protocol thereto, the Plan of Action on the Prevention and Combating of Terrorism in Africa and the establishment of the African Centre for the Study and Research on Terrorism (ACSRT) were additional relevant initiatives. The African Union had been working with the United Nations Regional Centre for Peace and Disarmament in Africa and had signed a 2006 memorandum of understanding with OPCW.

48. She reiterated the need to strengthen support for African States' reporting and implementation efforts under the resolution and called on nuclear weapon States to meet their disarmament obligations under the Nuclear Non-Proliferation Treaty and the agreements reached at the 1995 and 2000 Review Conferences.

49. **Mr. Sinhaseni** (Observer for Thailand), speaking on behalf of the Association of Southeast Asian Nations (ASEAN) Regional Forum, said that one of the primary purposes of the ASEAN Charter was to preserve Southeast Asia as a nuclear-weapon-free zone that was also free of all other weapons of mass destruction. The Forum (ARF) was the premier regional body for dialogue on security issues and for building trust and confidence.

50. In a statement on non-proliferation issued in Jakarta on 2 July 2004, the ASEAN States had pledged support for resolution 1540 (2004) and had encouraged Forum members to improve their legislation and

strengthen cooperation in order to share information and prevent illicit trafficking in weapons of mass destruction, their means of delivery and related materials by implementing effective export controls; taking enforcement measures to control the transfer of materials, technology and expertise that could contribute to the development of such weapons; and work with international cooperative mechanisms in order to provide technical assistance to other States.

51. In subsequent years, ARF had organized workshops in order to enhance its members' capacity to implement the resolution, culminating in a 2007 statement supporting national implementation in which States had pledged to promote lessons learned, share experiences and facilitate the provision of assistance. The ARF Vision Statement, adopted on 23 July 2009 in Phuket, identified non-proliferation and disarmament as key challenges facing the Asia-Pacific region. At the working level, the Forum's Inter-Sessional Meeting on Non-Proliferation and Disarmament had held its first meeting in Beijing from 1 to 3 July 2009. At that Meeting, there had been fruitful cooperation with the Committee, through its Chairman, and its experts. The challenges identified included gaps between legislation and enforcement, capacity limitations and the need for assistance, particularly in the area of detection technology. Offers of assistance made on that occasion, if translated into action, would further contribute to the implementation of resolution 1540 (2004).

52. **Mr. Benkhadra** (Observer for the League of Arab States) said that the 1998 Arab Convention on the Suppression of Terrorism had established a pre-existing legal framework for implementation of many of the measures called for in resolution 1540 (2004). The League of Arab States had made implementation of that resolution a priority and had urged its member States to become parties to the international counter-terrorism instruments. On 20 and 21 October 2009, it would hold a workshop on preventing terrorists from acquiring weapons of mass destruction, which it had invited the Committee to attend. In recent years, the League had participated in workshops on implementation of the resolution, held in Amman, Doha and Abu Dhabi and would take part in an upcoming symposium to be held at the Emirates Centre for Strategic Studies and Research in Abu Dhabi on 5 and 6 October 2009. In November 2008, the League had hosted a regional workshop on new counter-terrorism instruments in cooperation with UNODC, and in 2003 it had taken part in two workshops on biological terrorism, held in Washington and Geneva.

53. Non-proliferation of weapons of mass destruction was crucial in ensuring that such weapons did not fall into the hands of terrorists. The League continued to call for a Middle East zone free of weapons of mass destruction, in particular nuclear weapons. He endorsed the statement by the delegation of the Syrian Arab Republic concerning Israel's nuclear weapons, for the recent IAEA resolution calling on Israel to place all its nuclear facilities under comprehensive IAEA safeguards and for Security Council resolution 1887 (2009) concerning nuclear non-proliferation and nuclear disarmament. No State should be excepted from counter-proliferation measures.

54. **Mr. Martyniuk** (Observer for the Organization for Security and Co-operation in Europe) said that the Organization for Security and Co-operation in Europe (OSCE) had been actively engaged in the implementation of resolution 1540 (2004) since 2006 and had been commended for its activities in the Committee's 2008 report to the Security Council (S/2008/493). On 30 September 2009, the OSCE Forum for Security Cooperation had adopted the first chapter of its best practices guide for implementation of the resolution, which covered export controls and trans-shipment; further chapters on other aspects of the resolution were still under preparation. OSCE was also considering proposals for a strategy paper and an informal "group of friends of 1540" and was grateful to the United Kingdom and the United States of America for providing financial support for an extrabudgetary project, within its Conflict Prevention Centre, designed to support implementation of the resolution at the national level.

55. **Mr. Leslie** (Observer for the Pacific Islands Forum) said that the Pacific Islands Forum was grateful for the assistance provided by the Committee to Pacific Island States so that they could meet their obligations under the resolution. The Forum had welcomed the attendance of CTED, the UNODC Terrorism Prevention Branch and the Committee's expert group at meetings of its Regional Security Committee and Working Group on Counter-Terrorism. In the past year, there had been Pacific regional workshops on many aspects of implementation of the resolution, including customs risk management, combating nuclear terrorism, security sector governance and counter-terrorism in the maritime

sector. In its Nasonini Declaration, the Forum had called for the creation of national legislative frameworks to govern counter-terrorism, money-laundering and trafficking in drugs and persons; it had prepared model laws on counter-terrorism and transnational organized crime that incorporated the provisions of international instruments and it was also working with the Oceania Customs Organisation on a model regional customs law.

56. However, the Pacific island countries had limited financial resources, personnel and expertise. Despite the support provided by Australia, New Zealand and the Committee, the burden of reporting, introducing reforms and enacting new legislation was becoming increasingly onerous and he welcomed the undertaking by the expert groups of the Committee and other United Nations entities, such as the Security Council Committee established pursuant to resolution 1267 (1999), CTED and CTITF, to coordinate their work with a view to reducing duplication of effort.

57. **Mr. Guillermet** (Costa Rica), speaking on behalf of the Hague Code of Conduct against Ballistic Missile Proliferation, said that the worldwide proliferation of missile systems could create regional instabilities and threaten global security. The Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) was the only multilateral arms control mechanism of its kind. While it neither prohibited nor restricted the possession of military missile technology, such possession was linked to a set of principles and confidence-building measures, such as prior notification of missile launches and annual declarations of national ballistic missile programmes. The Code's 130 participating States recognized the need to prevent the proliferation of military missile technology and of ballistic missile systems capable of delivering weapons of mass destruction through multilateral, bilateral and national endeavours.

58. **Mr. Wolfe** (Observer for Jamaica) said that small island developing States like his own faced particular challenges in meeting the requirements of the resolution. Over the past two years, a number of workshops on implementation of the resolution had been held for the Caribbean Community (CARICOM) with the sponsorship of the European Union, Norway and Canada. A subregional workshop on preparation of reports pursuant to Security Council resolutions 1267 (1999), 1373 (2001) and 1540 (2004) had also been sponsored by UNODC. In the course of those workshops, certain recurring themes had been stressed: limited human capacity, competing national priorities (such as Jamaica's concern about small arms and light weapons), reporting fatigue and lack of coordination among the ministries and agencies responsible for different aspects of implementation. In order to address that last concern, his country had made its Ministry of Foreign Affairs and Foreign Trade the focal point for the preparation of reports to the three Security Council Committees on terrorism. The establishment of a voluntary trust fund targeting gaps in implementation, the sharing of information and expertise with developing countries and the involvement of international, regional and subregional organizations would all help developing countries do their part to confront the global threat posed by weapons of mass destruction.

59. **Mr. del Campo** (Observer for Chile) said that his delegation had been a member of the Security Council at the time of adoption of resolution 1540 (2004). The current international climate was propitious to further progress in the area of nuclear disarmament and non-proliferation, as seen from the recent consensus on the adoption of resolution 1887 (2009). Chile was committed to the preservation of international peace and security. It was a party to the relevant international instruments and a participant in the United States Government's Export Control and Related Border Security Assistance (EXBS) programme; it was part of the seven-country initiative and was one of the many States supporting the initiative against nuclear proliferation; and it planned to become a member of the Wassenaar Arrangement, the Australia Group and the MTCR.

60. With the cooperation of international experts, Chile had organized four seminars on implementation of the resolution. His Government was in favour of the multilaterally verified elimination of all weapons of mass destruction and international non-proliferation initiatives and condemned the military use of nuclear energy by any country under any circumstances. It supported the right of States to the peaceful use of

nuclear energy through the exchange of materials and scientific information and through multilaterally regulated cooperation.

61. He called for the strengthening and expansion of subregional, regional and international forums and bodies with a view to the harmonization of States' foreign policy in the area of international security and disarmament, including with regard to nuclear matters.

The meeting was suspended at 1 p.m.

United Nations S/AC.44/SR.27/Add.1

Security Council

Provisional

Distr.: General
30 October 2009

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Provisional summary record of the second part* of the 27th meeting
Held at Headquarters, New York, on Thursday, 1 October 2009, at 3 p.m.

Chairman: Mr. Urbina ..... (Costa Rica)

Contents

General debate (*continued*)

* The summary record of the first part of the meeting held on Thursday, 1 October 2009, at 10 a.m., appears as document S/AC.44/SR.27.

Corrections to this record should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

09-57671 (E)

Please recycle

The meeting was reconvened at 3.10 p.m.

General debate (*continued*)

1. **Ms. Holopainen** (Observer for Finland) said that the framework of multilateral disarmament and non-proliferation treaties were the cornerstone of international security. The full implementation of those treaties would be a remarkable step towards a safer world. She welcomed the various initiatives that had been taken to enhance international cooperation in the field of counter-proliferation, such as the Global Initiative to Combat Nuclear Terrorism (GICNT) and the Proliferation Security Initiative and also underlined the importance of international export control arrangements.

2. Security Council resolution 1540 (2004) had an unquestionable role to play in the efforts to counter proliferation. Full implementation of the resolution would be a demanding task and would require a constant review of national practices and coordination between national authorities. There was a clear need to raise awareness about the risks of proliferation and about the provisions of the resolution, and not just among State authorities but also among academics and in industry and the transportation sector.

3. It was essential to provide assistance in cases where the necessary resources were not available. Finland remained fully committed to the resolution and would continue to work towards full compliance. It would also continue to provide assistance to other States in a number of ways, including by training experts from developing countries in the implementation of the Chemical Weapons Convention.

4. She drew attention to the role of the Organization for Security and Cooperation in Europe (OSCE) in complementing the work done within the United Nations framework and noted that non-governmental organizations could also play a valuable role in promoting the resolution.

5. **Mr. Pirogov** (World Health Organization (WHO)) said that the International Health Regulations (IHR) were the legal and operational framework for WHO's activities in preventing the international spread of disease and dealing with health hazards. WHO was undertaking a number of activities to strengthen preparedness for public health emergencies of international concern. Internally, it had created a team to address the specific overlaps between security and public health.

6. At the international level, there was a 24/7 alert and response system to detect international public health events. WHO was strengthening its stockpiles for disease-specific risks, such as smallpox, as well as exploring the possibility of a new global stockpile for radio-nuclear and chemical emergencies. It was exchanging information with other international and regional organizations, both through formal mechanisms and through ad hoc technical interactions. As regards the latter, it was working with the North Atlantic Treaty Organization (NATO) and the International Criminal Police Organization (INTERPOL) to ensure that information about the public health impact of incidents was reflected in their training materials. Most recently, it had started working with the United Nations Office for Disarmament Affairs (UNODA) to develop the modalities of the Secretary-General's mechanism for investigating alleged use of chemical, biological or toxin weapons.

7. At the national level, WHO was committed to a programme of national capacity-building for detection of — and response to — public health emergencies of international concern. It had prepared guidance to help countries assess their readiness to deal with incidents involving chemical, biological or radiological materials and was providing guidelines on how to strengthen systems for dealing with deliberate contamination of food. It was disseminating standards and training to encourage the safe use and storage of biological materials in laboratories so as to minimize the risk of such materials being diverted for nefarious use and was collaborating with the European Union to strengthen laboratory security against biological risks. WHO was also a participant in the United Nations Counter-Terrorism Implementation Task Force (CTITF).

8. **Mr. Boucher** (Observer for the International Criminal Police Organization (INTERPOL)), referring to the work being done by INTERPOL to support implementation of Security Council resolution 1540 (2004), said that communication and cooperation were vital to law enforcement, particularly at the international level. To that end, INTERPOL had developed a secure global police communications system called I-24/7, which allowed member countries to share sensitive policing information and to access INTERPOL's global databases. The latter included one relating to stolen and lost travel documents and one put together by the Fusion Task Force, which had been created in response to the alarming rise in international terrorism. Its

database contained information about thousands of people linked to terrorism.

9. INTERPOL's bioterrorism prevention programme had been created in 2004 to raise awareness about the threat of bioterrorism and to provide specific training and guidelines on how to prevent and respond to that threat. Its Bioterrorism Incident Preplanning and Response Guide was available to law enforcement agencies on the restricted INTERPOL website and e-learning modules were being developed on the subject.

10. Project Geiger, which had been launched with support from the United States Department of Energy, focused on the analysis of information on illicit trafficking in nuclear and other radioactive materials. Its objective was to enhance the quality of data used to devise ways of responding to threats involving such materials. INTERPOL was also participating in the Global Initiative to Combat Nuclear Terrorism and was working with UNODA on workshops to build law enforcement capacity. The United Nations Global Counter-Terrorism Strategy called upon INTERPOL to work with UNODA to build compatible databases on biocrimes and biological incidents, in order to develop better tools for preventing and responding to threats from biological weapons of mass destruction.

11. **Ms. Medina-Carrasco** (Observer for the Bolivarian Republic of Venezuela) expressed strong support for the fight against terrorism but added that the fight should be a comprehensive one. Whereas the international community was making great efforts to ensure that weapons of mass destruction did not fall into the wrong hands, other important issues, such as the arrest of terrorist suspects, received much less attention. For example, her Government was still waiting for the noted terrorist Luis Posada Carriles to be extradited so that he could face the charges against him.

12. Recalling that Latin America had been the second region of the world to be declared nuclear-weapon-free — which clearly demonstrated its rejection of such weapons — she said that it was significant that the region's neighbour had the unenviable record of having been the only State to have used nuclear weapons against innocent people.

13. The Constitution of the Bolivarian Republic of Venezuela had declared the country to be a territory of peace; accordingly, her Government rejected anything that could endanger that peace. The presence of foreign military bases in Latin America and elsewhere posed a serious threat to peace and her Government rejected their presence as vigorously as it rejected the possession, production or transfer of weapons of mass destruction.

14. Venezuela was party to the various international instruments relating to the prohibition of various weapons of mass destruction. However, given that the mere existence of such weapons encouraged proliferation and thus presented a threat to world peace, she said that the permanent members of the Security Council should make a serious effort to develop a binding instrument on complete nuclear disarmament and should voluntarily destroy their respective arsenals.

15. Since its last report to the Committee, Venezuela had adopted a number of laws, including one on organized crime which established penalties, inter alia, for trafficking in nuclear or radioactive materials and use of chemical or bacteriological substances. However, it was not enough just to look at what non-nuclear-weapon States were doing to stop proliferation. Nuclear-weapon States must also provide detailed information to the Committee. The Committee should distinguish between nuclear-weapon States and non-nuclear-weapon States with regard to the implementation of paragraphs 1, 2 and 3 of the resolution.

The meeting rose at 3.40 p.m.

United Nations S/AC.44/SR 28

Security Council

Provisional

Distr.: General
30 Octobe.: 2009

Original: English

Security Council Committee established pursuant to resolution 1540 (2004)

Provisional summary record of the 28th meeting
Held at Headquarters, New York, on Thursday, 1 October 2009, at 3.45 p.m.

Chairman:	Mr. Urbina	(Costa Rica)
later:	Mr. Shepherd (Vice-Chairman)	(United Kingdom)
later:	Mr. Urbina (Chairman)	(Costa Rica)

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Theme (b): Assessment of whether States have undertaken measures derived from resolution 1540 (2004), including through the establishment and enforcement of appropriate criminal or civil penalties for violations of export control laws and regulations

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09-53589 (E)

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The meeting was called to order at 3.45 p.m.

Thematic discussion

Theme (a): Assessment of the impact of resolution 1540 (2004), including through measures taken after its adoption

1. **Mr. Andemicael** (Expert), introducing the first background paper prepared by the group of experts, said that it was difficult to assess the impact of resolution 1540 (2004) since there was no single way to measure national legislative activities. Much legislation on the issue had already been in place before the adoption of the resolution. The experts had noted a significant increase from 2007 to 2008 in the number of legislative and enforcement measures that States had in place. It was however likely that some of the increase could be accounted for by better reporting rather than new measures. Another complicating factor was that many States had measures addressing multiple obligations or multiple laws covering specific obligations. It was however interesting to note that statistics showed that, in recent decades, there had been increases in the number of relevant legislative measures taken by States at times when there was a heightened risk awareness as a result of particular incidents. The number of States adopting measures each year also followed a similar pattern.

2. Assessing the impact of the resolution on risk reduction would require the collection of additional types of data. For example, the Committee could try to measure whether national implementation of the resolution had reduced the risks of proliferation to non-State actors. It was important to understand what was meant by "appropriate effective" implementation of the resolution, which could mean examining the compatibility of national systems. Currently, the Committee only monitored implementation at the national level, not the resolution's impact on the development of an effective international barrier to proliferation by and to non-State actors. Weakness at the international level would undermine national efforts and hence the overall effective implementation of the resolution. It would also be potentially valuable for the Committee to examine the compatibility of national control lists and the manner of their incorporation into national policy and practice, rather than simply monitoring whether States had such lists.

3. Another issue to consider was the different legislative approaches taken by States to implementing their obligations to adopt appropriate effective domestic legislation. Some States had used a single-act approach, while other States relied on multiple acts. However, the Committee did not know how those different approaches affected the compatibility of national systems with emerging international standards.

4. The Committee could perhaps increase its focus on issues of compatibility, including in the use of penalties and preventive enforcement. A first step in that process might be to initiate pilot studies on the compatibility of national systems for various paragraphs and subparagraphs of the resolution, and on the use of resources. The Committee might also consider a more authoritative promotion of useful control lists.

5. **Mr. Wuchte** (United States of America) said that the experts' analysis was useful and the recommendations contained in the background papers seemed consistent with the objectives contained in the Committee's current programme of work (S/2009/124).

6. Turning to the issue of the financing of proliferation-related activities, he said that his country supported the work of the Financial Action Task Force on Money Laundering (FATF) and recalled that Security Council resolution 1810 (2008) had referred to welcoming its guidance in regard to the implementation of resolution 1540 (2004). Resolution 1540 (2004) contained specific references to financing, obliging Member States to take measures, but gave no clear indication of what those measures should be. The fact that different States were taking vastly different approaches might create vulnerabilities that could be exploited. The Committee should therefore continue its study of the issue, in cooperation with FATF, to see which measures were the most effective in practice.

7. **Mr. Marschik** (Austria) said that assessing the impact of the resolution was very important. However, the task was complex, since the responsibility for implementation lay with each Member State and there was a wide range of different legal and constitutional systems. Additional data helped facilitate a before-and-after comparison of the legal framework within each State and could help in the development of best practices, but it was of little use in comparing the impact of legislation in different States. The suggestion that States could provide the Committee with advance information about planned legislation was useful, since it would then be able to offer assistance and use the opportunity to promote best practices.

8. A more authoritative promotion of and common approach to control lists would facilitate the Committee's work and ensure a more effective international barrier against the proliferation of weapons of mass destruction. In assessing the impact of the resolution, it would be prudent to make use of existing mechanisms and organizations as far as possible, for example the International Atomic Energy Agency (IAEA) Illicit Trafficking Database.

9. **Ms. Medina-Carrasco** (Observer for the Bolivarian Republic of Venezuela) said that in discussing the impact of resolution 1540 (2004) it was important to remember what type of document it was and where it emanated from. Countries had independently been making progress in adopting non-proliferation measures or legislation rejecting weapons of mass destruction since the 1960s, including in regions without such weapons. Other international agreements were more representative of States than the Security Council resolution, in the sense that States had made independent decisions to sign and ratify those Conventions.

10. To give the resolution more credibility in terms of implementation, the Committee should work on developing paragraph 1 of resolution 1540 (2004). As matters stood, the resolution had real limitations, since States used such a wide range of different measures. The Committee should request States that possessed nuclear, chemical or biological weapons to provide much more information about them in their reports. Otherwise, the responsibility for non-proliferation lay primarily with those States that did not have and were not interested in obtaining such weapons.

11. **Mr. Shepherd** (United Kingdom) agreed that looking at the development of laws would help the Committee develop a greater understanding of the problems States were facing in implementing resolution 1540 (2004). The resolution did not and should not require a single specific law, but consequently its impact was hard to gauge. The experts' analysis had shown that it was possible to adapt existing legislation to bring it into line with the resolution and that new laws relevant to the resolution could also have a broader scope, covering such things as institutional reform or specific technical issues. Hopefully that demonstrated that implementing the resolution need not be a burden for States.

12. In cases where national legislation was not specific to the resolution, it was difficult to measure accurately the resources that States were dedicating to its implementation or how many prosecutions had resulted. That was certainly the case for the United Kingdom. As the representative of Austria had noted, it was also difficult to compare the legislation of different countries, owing to the variations in jurisdictions. Currently, the best way for the Committee to measure States' understanding of the resolution's requirements was to examine the legislation they cited in their reports. Events such as the present series of open meetings were also very useful in assessing the status of implementation in each State.

13. **Mr. Mashkov** (Russian Federation) said that resolution 1540 (2004) balanced the interests of all Member States and required cooperation among States, not the identification of "guilty" parties. All States had an interest in ensuring that weapons of mass destruction and their means of delivery did not fall into the hands of non-State actors, including terrorists. The resolution, while it was not a convention, was nonetheless binding by virtue of its adoption under Chapter VII of the Charter. It was therefore important to make all Member States — and not just those that had adopted the resolution — aware of the need for implementation. Proliferation was not the only problem: any country could become involved, to some degree, in the transit of weapons of mass destruction. The resolution provided flexibility as to how different legal systems and enforcement regimes might go about fulfilling the obligation of ensuring implementation. Those who were bent on proliferation would take advantage of the weakest link in the chain, and it would be distressing when States that had deemed themselves untouched by the problem found that they were the first to be involved, not because they sponsored such activity, but because they were not paying sufficient attention to the issue.

14. Turning to the assessment of the impact of the resolution, he pointed out that the Committee experts had formulated matrices to be completed by Member States precisely in order to avoid qualitative assessments of measures. Assessing the impact of the resolution was difficult because different jurisdictions used different legislative measures. Furthermore, it was fundamental to know not what resources had been used for any given task, but what results had been achieved, because the costs of performing specific tasks could vary between countries and because countries were at different stages of implementation. It was difficult to

compare legal systems as each system had its own features and law enforcement traditions.

15. When the Committee took up the subject of cooperation, the Russian Federation would circulate a document containing proposals on key practical aspects that could make implementation efforts more effective. While the Committee experts had done a tremendous amount of work on assessment of implementation, the issue was clearly much more complicated than anyone had anticipated.

16. **Mr. Cuculi** (Observer for Italy) agreed that it was difficult, if not impossible, to make qualitative comparisons or assessments of implementation based on the quantitative data from national reports. The main challenge was to identify, among the measures adopted, those practical tools and initiatives that had been most effective in helping States fulfil their obligations under resolution 1540 (2004).

17. Preventive enforcement, whereby violations were prevented rather than suppressed after they had already occurred, was crucial. Outreach to interested actors — be they in the public or the private sector — should be conducted in order to raise awareness of the need to prevent proliferation of dual-use items. He hoped that the Committee members would be able to agree at the current session on suggesting the idea to Member States during the review process.

18. *Mr. Shepherd (United Kingdom), Vice-Chairman, took the Chair.*

19. **Mr. Mashkov** (Russian Federation) said that the reference in the background paper to the list in Security Council document S/2006/815 was incorrect, as that was not a control list but a sanctions list which, if he recalled correctly, pertained to nuclear material. Security Council resolution 1540 (2004) was not a sanctions resolution, but a resolution for cooperation between States to prevent the proliferation of weapons of mass destruction. Control lists were intended to draw the attention of States to dual-use items whose export required heightened vigilance but was not prohibited. The reference should be deleted to avoid alarming anyone. The important thing was to work together to strengthen the non-proliferation regime and prevent weapons of mass destruction from being acquired by non-State actors. He also sought clarification on what exactly was meant by the reference in the briefing to "more authoritative promotion of useful control lists".

20. **Mr. Cupitt** (Expert) explained that the list of dual-use items in S/2006/815 had been referred to merely as an example. Member States often asked Committee members and experts what lists they should consult. The Committee might consider referring them to certain lists that had been prepared in other contexts by the Security Council, by conventions or by regional bodies. The phrase "authoritative promotion" had been used to describe such a referral process.

21. **Mr. Wuchte** (United States) said that, according to the Committee's current programme of work, the working group on transparency and outreach would "consider and seize opportunities for industry and media outreach that would complement and support the work of States, which, by operative paragraph 8 (d) of resolution 1540 (2004), are called upon 'to develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws'". Several industry groups were participating in the side event currently taking place, indicating that the Committee was making good progress in that respect.

Theme (b): Assessment of whether States have undertaken measures derived from resolution 1540 (2004), including through the establishment and enforcement of appropriate criminal or civil penalties for violations of export control laws and regulations

22. **Mr. Andemicael** (Expert), introducing the second background paper prepared by the Committee experts, said that the paper broadened the context of the first background paper to show the relationships and highlight comparisons between framework legislation and enforcement and to indicate the status of national implementation of legislation for the three categories of weapons — nuclear, chemical and biological. The paper compared the situations in mid-2008 and mid-2009 based on the matrices, which had been updated internally for statistical purposes.

23. The numbers were much higher on the "legislative framework" side than the "enforcement" side of the matrices, which might reflect the fact that States had been reporting more on the former than the latter. Some reports, however, detailed enforcement measures without any indication of the basis in framework legislation, while other reports showed both legislation and enforcement. The reports had not, therefore, been particularly helpful in reaching clear conclusions as to the extent of implementation with respect to both legislation and enforcement, but had

merely provided an indication of what the situation might be.

24. The comparison between weapons categories had revealed more extensive implementation in the area of chemical weapons, in that more measures had been taken in that field, perhaps owing to the parallel between resolution 1540 (2004) and the comprehensive Chemical Weapons Convention. Member States must continue working intensively to ensure the full implementation of the resolution, particularly with respect to enforcement, and more specifically with respect to subparagraphs 3 (c) on border controls and (d) on export controls, on which relatively little progress had been made.

25. With a few exceptions, particularly regarding nuclear weapons prohibitions, States had continued to report more on their legislative frameworks than on enforcement measures, which might suggest that enforcement was still lagging. To confirm that that was not an artefact of data collection, the Committee should consider requesting States to provide more information on enforcement, which appeared to be an area of weakness.

26. **Mr. Cuculi** (Observer for Italy) said that, while he agreed with the analysis presented, he noted that the first five columns of the table — "legislative framework", "enforcement", "taking both legislative and enforcement" and "taking enforcement only" — were open to subjective interpretation, whereas the last column, "taking no measures", was more objective. By his calculation, on three quarters of the measures identified in the tables, more than 50 per cent of Member States had taken no measures to fulfil their obligations under resolution 1540 (2004). That was a striking figure that revealed a serious and widespread implementation problem, and the Committee should seek deliberations to ascertain the reasons for it. Certainly, national resources would be one relevant issue, which would be directly linked with capacity-building and international assistance and cooperation. All of the statements made during the general discussion had underlined the need to give priority to international assistance.

27. The Committee must also ask itself whether all of the sectors identified under the resolution were actually perceived as relevant by all Member States, or whether it was necessary to focus on a few, such as export and border controls. A country that had no chemical or biological facilities would tend to view those issues as less relevant, but all countries must have effective export control regulations to monitor imports, exports and transit of dual-use items, failing which they would have a serious safety and security issue regardless of whether they produced such items. In-depth analysis of the gaps in implementation was required, together with proposals on how the Committee could address them.

28. *Mr. Urbina (Costa Rica) resumed the Chair.*

29. **Mr. Wieland** (Austria) said that it was reassuring that a growing number of States were enacting legislative measures to prevent, prohibit and punish illegal activities under resolution 1540 (2004), but vulnerabilities still existed. The establishment and implementation of legal measures were lagging in the area of related materials, particularly biological materials. He hoped that heightened awareness of that fact, coupled with willingness to establish the necessary legal frameworks, would soon lead to improvements.

30. Austria had a wide range of legislative measures in place to prevent the proliferation of weapons of mass destruction that, together with the relevant international treaties, provided the legal framework for its implementation of the resolution. As the background paper made clear, however, even the best legislation might not suffice. Increased globalization and economic development had simplified access to materials related to weapons of mass destruction. Strong enforcement through effective border and export controls was essential to combat proliferation; national, regional and international assistance and outreach programmes should focus on such control measures as a priority.

31. **Mr. Mashkov** (Russian Federation) said that the only conclusions that could be drawn from the experts' analysis were that legislation was still inadequate in many countries and that the Committee must give the issue careful attention and draw on the considerable resources available to it in order to solve the problem.

32. The level of law enforcement was directly related to the existence of legislative provisions: if no legislation existed, then there would be no provisions for its enforcement or implementation. Legal experts sometimes argued that it was unnecessary to include a specific provision in the criminal code unless a violation had occurred. That did not mean that no enforcement was taking place, but that provisions were broad in nature because it was difficult to provide for specific cases.

33. The Committee should consider carefully what additional information was actually required from Member States and should not overburden them with reporting obligations, which diverted their attention from the practical work of implementation. At present, there was insufficient information on implementation for over 30 Member States. The Committee should ensure that it obtained enough information to have at least an overview of the status of implementation in those countries.

34. **Mr. Chatel** (France) welcomed the broader dialogue enabled by the open meeting format, which permitted Member States that were not currently Committee members to express their views.

35. The experts' report revealed clear gaps in the implementation of the resolution, not only in export controls, the biological sector, the financial sector, transport and means of delivery but also in participation as an accomplice. There were also geographical gaps; it was well known that difficulties in implementation were concentrated in certain geographical regions.

36. As previous speakers had pointed out, there was a margin for interpretation of the data: the situations of individual countries were different and therefore the gaps in implementation also had different meanings. Trafficking evolved and moved geographically. Traffickers were intelligent, and were naturally attracted to places where State structures and enforcement were weak. There was some virtue, therefore, in using the same standard of assessment for all Member States.

37. The history of resolution 1540 (2004) had unfolded in three stages: in the first stage, the rules had been adopted; in the second stage, those rules had been consolidated in resolution 1673 (2006); with the adoption of resolution 1810 (2008), there had been a move towards a third stage in which the focus would be on assistance, an area in which much could be done to address weaknesses in reporting as well as the geographical and functional areas in which implementation was lagging.

38. A rational risk-based approach could be adopted to solve problems in a single State, but in a universal organization in which consensus must be maintained, it was not always possible to take the most rational approach to risk. Within the constraints of its mandate, and with the provisions for assistance, the Committee must nevertheless attempt to make the rational and the equitable converge.

39. **Mr. Wuchte** (United States) agreed that resolution 1810 (2008) had clearly moved matters to the assistance and implementation stage. It was humbling to see the great attention that a wide range of States were devoting to resolution 1540 (2004). Nonetheless, the data from the Committee's 2006 and 2008 reports (S/2006/257 and S/2008/493) showed that an immense amount of work remained to be done. He wondered whether the tools were actually in place to assist not just a few Member States but all 192 of them, since, as the representative of the Russian Federation had rightly pointed out, weapons of mass destruction were everyone's problem.

40. The Committee's current programme of work already contained the necessary ideas on assistance; only slight adjustments would be needed to put them into effect. With respect to capacity-building projects focusing on implementation in States or regions that faced resource challenges, his delegation would welcome the submission of projects through the Committee's technical assistance template so that the United States could begin to work on such projects. The organization of regional and subregional meetings of requesting States and potential partner providers would be effective in delivering assistance to regions with specific needs and would help avoid an ineffective one-size-fits-all approach. With respect to regional and country visits, he was of the view that the 2006 and 2008 reports provided sufficient information and that States should not be asked to provide yet another set of data. By comparing the two reports, the Committee could see how much progress had been made and how much work remained to be done on implementation. He favoured the idea promoted by the European Union that consultants and other experts should be hired to help provide assistance. The Committee's eight experts did excellent work, but would be unable to meet the needs of 192 countries. Lastly, on the assignment of points of contact or project managers for resolution 1540 (2004) in international, regional and subregional bodies, he concurred with the favourable views of the Organization for Security and Cooperation in Europe and the Caribbean Community, which had already appointed a member to act as its 1540 regional coordinator. He hoped that some of those ideas would be reflected in the Committee's next comprehensive review report.

The meeting rose at 5.30 p.m.

United Nations S/AC.44/SR.29

Security Council

Provisional

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29 October 2009

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Security Council Committee established pursuant to resolution 1540 (2004)

Provisional summary record of the 29th meeting
Held at Headquarters, New York, on Friday, 2 October 2009, at 10 a.m.

Chairman: Mr. Shepherd (Vice-Chairman) ..... (United Kingdom)

Contents

Thematic discussion

Specific element:

(e) Evaluate, as appropriate, the impact of national implementation measures on individuals and due process standards

(c) Conduct regional analysis of implementation, with some examples of national and regional practices and experience sharing

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09-55200 (E)

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In the absence of Mr. Urbina (Costa Rica), Mr. Shepherd (United Kingdom), took the Chair.

The meeting was called to order at 10.20 a.m.

Thematic discussion

Specific element (e): Evaluate, as appropriate, the impact of national measures on individuals and due process standards

1. **Mr. Andemicael** (Expert), introducing the agenda item, said that as Security Council resolution 1540 (2004) did not specify intent as an element of illicit trafficking, the liability of the actor was thus a common liability based on ascertainment of the material commission of an act prohibited by law. The relevant questions were whether the possession of illicit material related to weapons of mass destruction should also be a crime and whether the fact that the danger such material represented if used for terrorist purposes was such as to justify changes to normal criminal proceedings. No State had yet reported granting law enforcement agents special or extraordinary search, arrest or detention powers; limitation of the right of legal representation and the right to be assisted by an interpreter; or denial of the right to appeal or benefit from other due process standards in the case of violations relating to requirements under the resolution.

2. The background paper provided some relevant legal information to help with the analysis of how States' implementation of the provisions of Security Council resolution 1540 (2004) would make the standards of human rights, refugee and humanitarian law applicable. The Committee might wish to invite States to provide information on their handling of those issues in relation to the implementation of the resolution and to encourage States to verify whether their legal proceedings were aligned with due process standards and respect for fundamental human rights and freedoms.

3. **Mr. Mashkov** (Russian Federation) said that the Committee should not add to the work of the experts, who were already discussing issues that were only marginally related to implementation of resolution 1540 (2004).

4. **Mr. Marschik** (Austria) said that his delegation had proposed the topic, which was not new, as similar issues had been dealt with by the committees established pursuant to Security Council resolutions 1267 (1999) and 1373 (2001). It had become clear that States would benefit from some guidance in the area of due process, which was very important for a number of reasons. Member States were required under paragraph 2 of Security Council resolution 1540 (2004) to adopt and enforce appropriate effective laws, in accordance with their national procedures. In line with the obligations of States under international human rights instruments, those procedures should include due process guarantees, such as independence and impartiality of the judiciary, the presumption of innocence, the right of defence and the right to a fair trial, including the right to appeal. The same standards should apply to the measures referred to in paragraph 3 of the resolution, which should be based on clear legislation to avoid interference with fundamental human rights and the rule of law.

5. There were also political reasons to ensure compliance with due process and rule of law obligations. Security Council resolutions, the 2005 World Summit Outcome, and the Plan of Action of the Global Counter-Terrorism Strategy all clearly stated that States should comply with international law, including applicable international human rights, refugee and humanitarian law, when combating terrorism.

6. Goodwill and cooperation from national entities were more easily achieved if specific legal protections were provided. Counter-terrorism measures and human rights protection measures should be complementary and not conflicting. Accordingly, Member States should enhance information-sharing on their legal and regulatory architecture. The information provided could be used for a compilation of best practices.

7. **Mr. Cui** Wei (China) said that China supported the views expressed by the delegation of the Russian Federation. He noted the comments made by the delegation of Austria, but believed that the implementation of Security Council resolution 1540 (2004) should not be compared in too simplistic a way with the implementation of earlier resolutions. Implementation of the later resolution was still at the stage of inviting countries to submit reports and to enhance capacity-building. The Committee should therefore take a step-by-step approach rather than introducing new concepts which would only bring additional new complexities and burdens for Member

States and further delay implementation of the resolution.

8. **Mr. Vargas** (Brazil) agreed that respect for due process was vital in the implementation of all Security Council resolutions. However, the Committee should be cautious about asking Member States to report additional information when not all of them had been able to comply with the initial requirements. If further requirements were imposed, States would need additional assistance.

9. **Mr. Wuchte** (United States of America) said that his delegation had supported the language used in resolution 1810 (2008) about the three committees working together, and it was important to seek views concerning the efforts made to rationalize their work. However, it was also important to maintain the independence and uniqueness of non-proliferation treaties and regimes, including the work of the present Committee.

10. **Mr. Cuculi** (Observer for Italy) said that he shared the views of Austria and other delegations regarding the need for caution on the very complex issue of due process. Respect for the rule of law and the rights of all individuals depended on the clarity of national laws. Crimes and penalties relating to the violation of non-proliferation provisions should be clearly specified, as any loopholes in national legislation made implementation of the resolution more difficult.

11. **Mr. Chatel** (France) said that implementation of Security Council resolution 1540 (2004) was clearly a national responsibility. It was also clear that the Committee's work was different from that of the sanctions committees. Yet it was important and legitimate for the Committee to make it clear that obligations to fight proliferation could not be used to justify restrictions of freedom.

12. **Mr. Mashkov** (Russian Federation) asked how much working time the experts had spent on preparing the paper on the current topic. Implementing Security Council resolution 1540 (2004) was a State responsibility. It was time consuming and counter-productive to add to the Committee's agenda issues that were political in nature and depended on how the individual State operated. Such activity prevented the Committee from dealing with practical issues relating to actual implementation.

13. Human rights did not form part of the Committee's mandate and bringing in that issue would only lead to further dissatisfaction with the resolution. His delegation did not oppose discussion of human rights, but considered that they should be dealt with elsewhere.

14. He agreed with the representative of the United States that Security Council resolution 1540 (2004) was a non-proliferation resolution rather than a sanctions resolution. The resolution did call for cooperation with the counter-terrorism committees, but that did not justify adding additional elements to the work of the present Committee. The experts should focus on the specific issues that were within the Committee's mandate.

15. **Mr. Wieland** (Austria) said that although the focus of the Committee differed from that of the sanctions committees, the three committees had one point in common: they all targeted and had a direct impact on individuals. Concerns about human rights therefore arose, and it was better to address those concerns from the beginning rather than waiting for problems to arise, as had occurred with the other committees.

16. **Mr. Andemicael** (Expert) said that the experts had worked on all eight papers in accordance with the instructions received and had also worked on the modalities paper (S/2009/170). They had not spent more time on any particular paper at the expense of others.

Specific element (c): Conduct regional analysis of implementation, with some examples of national and regional practices and experience sharing

17. **Mr. Andemicael** (Expert), introducing the agenda item, said that background paper (c) explored the feasibility of the regional approach to analysis of implementation and listed a number of ideas for addressing the challenges involved.

18. In the statistical analysis, rough estimates had been made based on what Member States had reported and the content of the national matrices. The fact that States were not reporting, or were underreporting, did not necessarily indicate a lack of implementation as the Committee might not have received full information. Nevertheless, reporting was the first step in implementation.

19. Low implementation was closely related to a lack of capacity-building. The active engagement of some regional and subregional organizations, for example in the Latin American and Caribbean region, had been helpful in setting supportive normative guidelines and initiatives.

20. In areas with higher implementation rates, the question of common standards and experience sharing was very important. In the case of Eastern European countries and members of the group of Western European and other States, interregional organizations such as the Commonwealth of Independent States, the European Union and the Organization for Security and Cooperation in Europe would be consulted.

21. Regional security norms could be useful for building synergy among subregional bodies and for bilateral and other initiatives addressing non-proliferation and counter-terrorism requirements and other security issues. They might also help with setting priorities at the national level.

22. Draft model laws or legislative guidelines for the implementation of Security Council resolution 1540 (2004) might be feasible in some regions or subregions. Country-specific workshops with the participation of neighbouring States could also prove useful.

23. **Mr. Bonsen** (Bosnia and Herzegovina) said that chemical, biological, radiological and nuclear terrorism remained an acute threat. The effects of a biological attack might become apparent only several days after the event, and could last for years. The psycho-social effects were unpredictable and potentially disproportionate.

24. In cooperation with IB Consultancy and the Organization for the Prohibition of Chemical Weapons (OPCW), Bosnia and Herzegovina had launched the Implementation Programme against Chemical, Biological, Radiological and Nuclear Terrorism for the Western Balkans (IPACT Programme) and established a national steering committee. The Programme was aimed at developing the necessary laws and regulations with regard to non-proliferation; formulating a programme to implement those laws at all levels; establishing a comprehensive crisis management system; and engaging with critical and sensitive civilian targets and organizations. A wide range of stakeholders would be involved. The Programme would adopt a holistic, functional and transparent approach, coordinating with related projects and building on regional knowledge. Bosnia and Herzegovina would act as the pilot country.

25. The first phase, which had begun recently, consisted of developing a programme plan through stakeholder workshops and a donor conference. It was expected that the Programme would span four years at a total cost of some €6 million. Full implementation would begin in 2010. Norway had contributed €60,000, and Bosnia and Herzegovina €20,000. However, the Programme could not proceed without further material and financial support.

26. **Ms. Chaimongkol** (Observer for Thailand) said that after the adoption of the resolution, her Government had enacted a series of laws to control sensitive items. Using the European Union list as a guideline, Thailand was establishing a national list to include dual-use items in its export control system. Industry outreach programmes were in place in order to keep private-sector actors informed of the process. Thailand's efforts would be improved through training on the identification of sensitive materials and dual-use items, as well as oversight mechanisms to ensure industry compliance.

27. In April 2009, Thailand and the Nuclear Suppliers Group had jointly organized a regional workshop attended by several members of the Association of South Eastern Nations. Cooperation between Member States should be strengthened at the regional and global levels. Regional and international information-sharing mechanisms between exporting and recipient countries should also be developed.

28. The differences between Member States in terms of legislation and enforcement continued to pose a challenge. That gap could be bridged through capacity-building and technical assistance. The Committee should consolidate its role as a clearing house, facilitating capacity-building programmes and coordinating between Member States.

29. **Mr. Tow** (Observer for Singapore) said that involvement in the work of the Committee helped States to gain a better understanding of the implementation of resolution 1540 (2004), and the open meeting was a valuable way of enhancing transparency in the United Nations. Singapore had made good progress in implementing the resolution, despite the challenges it faced as the world's busiest port. He therefore wondered whether the experts could

consider States not only by region, but also according to the type of challenges they faced.

30. Although the focus on due process was valuable, the priority for Singapore was a pragmatic approach to supply-chain security and export controls. His country had initially monitored a partial list of items from the four major multilateral export control regimes. In 2009, it had started to monitor all four lists. Singapore's robust legislation included a catch-all provision for potential weapons of mass destruction items. Strong broker controls had been put in place, in addition to controls on the electronic transmission of sensitive goods technology. Policymakers, enforcement officials and technical experts worked in close cooperation.

31. However, it was important to balance the requirements of the resolution with the country's commercial needs. Singapore's core emphasis was therefore on systematic industry outreach, notably through company visits, seminars and awareness-raising. Companies submitted information through the electronic system TradeNet. The authorities also conducted post-shipment follow-up checks.

32. **Mr. van der Velden** (Observer for the Netherlands) said that a workshop held in 2009 at The Hague had discussed the wide variation in the implementation of the resolution. That problem should be addressed through cooperation between countries and regional and subregional organizations, including the exchange of best practices. With that end in mind, his country would support the establishment of a voluntary trust fund under the auspices of the Committee or of the Office of Disarmament Affairs.

33. **Mr. Koné** (Burkina Faso) said that Africa's record in implementing the resolution did indeed require improvement. That was in part because the large number of States in the African region gave it particular visibility. Most important, however, the continent's comparatively low rate of response reflected the multiple priorities of States rather than any lack of goodwill.

34. In order to address that issue, cooperation between States and experts should be intensified, in particular through country visits. Visited States could be grouped according to their characteristics in order to determine and prioritize their needs. States within a given subregion could also support one another. Burkina Faso was able to assist neighbouring States through its National Financial Administration School and its regional training centre for customs officials, which was recognized by the World Customs Organization; its police officers were also providing assistance in the subregion. Smaller States could take initiatives in the hope that others would follow suit. Lastly, there should be greater dialogue in order to match assistance to States' needs, perhaps through a meeting to be held at United Nations Headquarters.

35. **Mr. Tarar** (Observer for Pakistan) said that although the matrix was a useful tool, a single model might not be relevant to all States. Differences in national systems and capacities should be taken into account. The Committee should avoid an overly rigid approach to national legislative frameworks. In many cases, national legislation might in fact be adequate despite even if it did not use the precise terminology of Security Council resolution 1540 (2004). The temptation to introduce model legislation should also be avoided, as such models often could not be enforced in practice.

36. Cooperation between the experts and national focal points should be intensified. The review should seek ways to facilitate cooperation between States and addressing unresolved issues. In order to ensure objectivity and avoid controversy, the process should be based only on national reports and the contributions of the relevant intergovernmental organizations. Risk and threat assessments should be aimed at identifying, on the basis of national reports, those aspects of the resolution that required further attention.

37. **Mr. Ben-Shaban** (Libyan Arab Jamahiriya) said that lack of capacity in some States had caused disparities in the implementation of the resolution. The regional groups and workshops were intended to address that problem. Such initiatives were valuable, but not sufficient. The Committee could do more to help, for instance by fostering dialogue with individual States. In particular, country visits could be organized with the agreement of the visited State.

38. Access to resources was also an obstacle for many States, which did not have the equipment necessary to monitor exports. International funding should be secured in order to put in place an effective global monitoring regime.

39. **Mr. Nakahara** (Japan) said that his country had worked to promote implementation of the resolution by hosting regional meetings. Although many efforts had been made at the regional level, more could be done to

share experience and to exchange information about such meetings.

40. **Mr. Al-Nasser** (Observer for Qatar) said his country strongly supported the work of the Committee and had been among the first States to submit a report. The Committee must adopt an objective and non-selective approach to its work, focusing on its mandate under the relevant resolutions and avoiding political and specific regional issues. Disarmament and the application of such instruments as the Treaty on the Non-Proliferation of Nuclear Weapons remained the best way to prevent non-State actors from acquiring weapons of mass destruction. Nor should the relevant resolutions be used as a pretext to prevent the development of advanced technologies for peaceful purposes.

41. The success of the Treaty depended in turn on the implementation of the resolution on the Middle East adopted by the 1995 Review and Extension Conference of the Parties to the Treaty. Practical steps should be taken to establish a nuclear-weapon-free zone in the Middle East. Israel should accede to the Treaty and place its facilities under the comprehensive safeguards agreement of the International Atomic Energy Agency.

42. Regional organizations had a pivotal role to play in implementing Security Council resolution 1540 (2004). Regional expertise and cooperation, particularly on such issues as intelligence and border control, were vital in order to conduct risk assessments and determine remedial action. Qatar had therefore hosted a regional workshop on the implementation of the resolution in March 2009. The workshop had highlighted the coordinating role of the League of Arab States and of the Gulf Cooperation Council. Such workshops had been held throughout the developing world, and should also be organized in developed States.

43. **Mr. Mashkov** (Russian Federation) welcomed the regional approach and suggested that the Committee should focus on the countries most in need of assistance. The low level of reporting might be addressed by preparing individual country- or region-specific matrices. The representative of the United States had expressed support on the previous day for expanding the expert group and holding implementation workshops primarily in regions where there were low reporting levels. Such action would help the Committee to focus on the effectiveness of implementation.

44. Seeking reports or other information from regional organizations should be a secondary consideration. The essence of the Committee's work was to analyse national reporting. Regional organizations were welcome to report on regional issues, but it was not mandatory to do so.

45. **Mr. Chatel** (France) said that the disparity in the submission of reports reflected the different situations, priorities and awareness of the concerned States. Some speakers had raised the possibility of a risk-based approach. However, the Committee was a non-discriminatory body. Moreover, traffickers constantly moved their operations to the States with the weakest infrastructure. The Committee should maintain a high level of awareness-raising. He therefore regretted the absence of such bodies as the International Organization of la Francophonie, which had an important role to play.

46. Regional seminars were not sufficient to help with the process of drafting or amending legislation. It was vital to discuss how to organize and fund country visits. The adoption of model laws would also be useful. France had devoted significant time and resources to reformulating national non-proliferation legislation; the resulting texts would be disseminated, and might benefit other countries that used the French language or a civil-law system.

47. **Mr. Wuchte** (United States of America) noted that the European Union's two Joint Actions had largely funded two rounds of successful workshops. The first round had focused on awareness-raising and the second, almost complete, on implementation of the resolution. The Committee should now focus its efforts on countries or smaller groups when so requested. His Government supported the idea of a voluntary fund to help States with implementation.

48. The Committee's programme of work had presented many ideas and four working groups had been established. Regional and intergovernmental organizations could be encouraged to organize workshops in specific areas when they had the capacity to do so.

49. **The Chairman**, speaking as representative of the United Kingdom, said that his Government believed that Security Council resolution 1810 (2008) and the

Committee's programme of work gave a very clear mandate for intensifying work at the regional level. As the Committee moved firmly into the implementation and capacity-building stage, more targeted country-specific and regional events and visits would be appropriate. The Committee should address the needs expressed by States, respecting their sovereignty at all times.

The meeting rose at 12.20 p.m.

United Nations S/AC.44/SR.30

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Provisional

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Provisional summary record of the 30th meeting
Held at Headquarters, New York, on Friday, 2 October 2009, at 3 p.m.

Chairman: Mr. Galli (Vice-Chairman) ..... (Croatia)
later: Mr. Urbina (Chairman) ..... (Costa Rica)

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The meeting was called to order at 3 20 p.m.

Thematic discussion

Specific element:

(d) Generate new tools, such as guidelines on handling assistance requests, and develop practical means to address the most commonly found "gaps" in implementation

1. **Mr. Andemicael** (Expert), introducing the agenda item, referred to the five available tools for technical assistance: the legislative database; the database of requests for and offers of technical assistance; the template for the preparation of requests for assistance; the Trust Fund, administered by the Office for Disarmament Affairs; and the action plans and road maps.

2. Challenges included the prioritization of objectives, given the complexity of Security Council resolution 1540 (2004); the lack of action plans and road maps submitted; the development of the Committee's role as a clearing house to match requests for and offers of assistance; the general nature of requests for assistance; the lack of cooperation among international organizations; and the preparation of a strategy by the Committee for the submission of joint requests.

3. The Committee experts proposed options that included sample implementation plans and assistance requests; an overhaul of the databases to make them more user-friendly; incentives for States jointly to make regional and subregional requests; greater use of the dedicated parts of the Trust Fund for regional and global disarmament activities; networking technologies to help those requesting and offering assistance to work as partners; and better matching of requests and offers through more analysis.

4. **Mr. Leslie** (Observer for the Pacific Islands Forum) said that despite the constraints faced by developing States, as international citizens they were committed to fighting terrorism and proliferation; they worked hard to improve legislation and judicial and enforcement capabilities and to strengthen their borders. Despite the request database and the assistance template, the obligations emanating from the resolution were a burden. A more tailored implementation plan was needed that would reflect the capabilities and situation of the Forum's members. One template and a single channel for reporting would be a more realistic approach for developing States.

5. **Mr. Paschalis** (Observer for South Africa) said that dialogue at Headquarters over the usefulness of electronic databases was beneficial, in the light of connectivity problems faced by certain States. Missions must be informed of the information available.

6. **Mr. Chatel** (France) expressed particular support for the proposed search engine that would match requests with offers, with details of sectors involved and information on previous or existing assistance. Requests for assistance must be addressed more quickly, and through coordination, duplication of efforts by regional organizations must be avoided.

7. **Mr. Martyniuk** (Observer for the Organization for Security and Cooperation in Europe (OSCE)) said that there must be stable access to information and strong lines of communication. A roster of experts in themes related to implementation of the resolution, connected to a network of focal points in States' capitals, would be useful. Basing these exchanges on the Internet would ensure their cost-effectiveness.

8. **Mr. Wieland** (Austria) said that implementation gaps must be closed to prevent strict compliance in one region being undermined by loopholes in another. Work in the field of the rule of law and the fight against impunity was essential to close such gaps. States were encouraged to join the Additional Protocol and the Small Quantities Protocol of the International Atomic Energy Agency (IAEA) and to request IAEA support for their requests for assistance regarding implementation of resolution 1540 (2004).

9. **Mr. Paschalis** (Observer for South Africa) said that he wondered about the purpose of specific country visits, in the light of the mandate of the resolution, and asked how decisions to make visits would be reached. An analysis of the cost-effectiveness of conducting visits to groups of countries was needed.

10. **Mr. Cupitt** (Expert) said that States' input would be taken into account in the criteria for country visits.

11. **Mr. Chatel** (France) said that a creative approach to providing assistance was needed because many countries had never reported, many reported infrequently and major gaps remained. Seminars given by experts in legislation held in groups of countries in conjunction with follow-up visits was an option.

12. **Mr. Mashkov** (Russian Federation) said that the criteria for making visits must be based on the mandate contained in resolution 1540 (2004). The Committee must not be overburdened by initiatives with dubious results.

13. **Mr. Shepherd** (United Kingdom) said that voluntary action plans, as introduced in resolution 1810 (2008), were very useful. To enhance implementation, visits to countries or groups of countries, possibly after dialogue at Headquarters, would achieve the most practical results.

(g) Assess the existing templates, particularly the matrix of the Committee, in the light of the information gathered for the 2006 and 2008 reports

14. **Mr. Andemicael** (Expert), introducing the agenda item, said that the following were the main challenges involved in the use of the Committee matrix: many States still found the matrix too complex, despite outreach efforts to explain its content; the matrix did not address the issue of when measures were taken, which made it difficult to assess the impact of the resolution and the work of the Committee; the existing version did not have any fields to provide evidence of implementation measures, other than the mere existence of legislative measures; it did not reflect the extent to which States met international standards in a particular field; and some jurisdictions were not covered by the matrix, since they did not fall neatly into the category of United Nations Member States.

15. To meet those challenges, he suggested reducing the complexity of completing the matrix without losing essential information; introducing elements of time into the matrix; including evidence in the matrix of the execution and enforcement of legislative measures; improving the integration into the matrix of the standards of international bodies; and working with States and international organizations on the implementation of the resolution by non-State authorities.

16. **Mr. Coulon** (Austria) said that the matrix had proved to be an indispensable tool for evaluating the status of implementation of the resolution, identifying gaps in its implementation more clearly and thus determining where to allocate technical assistance to States. As such, it provided the basis for an informed dialogue between members of the Committee and individual States. To improve that dialogue still further, the Committee should seek to adapt the matrix in the light of past experience.

17. His delegation supported methods to reduce the complexity of the matrix without the loss of essential information. For example, the development of a web-based format and a more user-friendly system might help to ensure that complex data was collected as efficiently and effectively as possible. Meanwhile, the introduction of a time element in the matrix could provide the Committee with a fuller picture, leading to the swifter identification of problem areas at the level of national implementation. The matrix could also prove useful as part of any future efforts to acquire new types of information.

18. **Mr. Cui** Wei (China) recalled that the Committee had a mandate to ensure that Security Council resolution 1540 (2004) was implemented by all Member States of the Organization. He therefore questioned the validity and relevance of the term "non-State authorities", as contained in the background paper prepared by the Committee experts.

19. **Mr. Tarar** (Observer for Pakistan) agreed that the Committee must be careful to avoid such unclear and potentially controversial concepts. On a separate issue, he pointed out that not all parts of the world had the same high level of connectivity to the Internet as New York. He therefore wondered to what extent the Committee would realistically be able to help States overcome that problem through the provision of technical assistance alone.

20. **Mr. Paschalis** (Observer for South Africa) said that the matrix would be difficult to simplify in view of the complex nature of Security Council resolution 1540 (2004). It was more important to include the level of implementation of the resolution in the matrix than that time taken for such implementation.

21. **Mr. Shepherd** (United Kingdom) said that the term "non-State authorities" referred to a variety of entities at the supranational and subnational levels for which it would be difficult to agree on a single definition. Individual States should therefore work with the Committee to decide if and how such entities might be incorporated into the matrix without any unnecessary overlap. In any case, Member States remained the starting point for implementation of the resolution.

22. **Mr. Mashkov** (Russian Federation) said that the reference to non-State authorities in the background paper went beyond the scope of Security Council resolution 1540 (2004), since States alone were responsible for implementation of the resolution. In that respect, the experts must be guided strictly by the resolution and the instructions of the Committee.

23. **Mr. Andemicael** (Expert) recalled that Security Council resolution 1540 (2004) currently did not provide for non-Member States of the United Nations to submit their reports to the Committee, even though several such entities had expressed a desire to do so.

Other matters

24. *Mr. Urbina (Costa Rica), Chairman, took the Chair.*

25. **Mr. Mashkov** (Russian Federation) said that his country had consistently advocated the full implementation of Security Council resolution 1540 (2004) by all Member States of the Organization. In order to increase the effectiveness of the international community's efforts to achieve that long-term goal, he wished to put forward a number of ideas for discussion in the context of the comprehensive review.

26. With a view to enhancing the effectiveness of the Committee's activities and strengthening its coordinating role, particular attention should be paid to scheduling the Committee's work in a more systematic and less ad hoc manner. For example, the Committee should hold meetings once every two weeks and the schedule for its outreach activities should be planned six months in advance.

27. Furthermore, improvements should be made to the Committee's rules of procedures and its modus operandi. For instance, the adoption of important documents, including under the silence procedure, should be preceded by thorough discussions by the full membership of the Committee. Where necessary, such discussions should be held at extended public meetings in order to increase the transparency of the Committee's work. Discussions of particularly important issues might also require the participation of experts from capitals.

28. The Committee's organizational structure should also be optimized to reduce the number of its working groups to a more reasonable level. The time had come to expand the Group of Experts, particularly in the light of the broader objectives established in Security Council resolution 1810 (2008). In that regard, his delegation supported the French proposal to increase the Group of Experts by at least one person.

29. Notwithstanding the important role played by the experts, their status as consultants implied that they should strictly observe the instructions of the Committee and its Chairman. However, that was not always the case. In some cases the experts had prepared unauthorized documents of poor quality on important issues. In that connection, he noted the importance of improving the quality of Committee documentation, particularly the matrix, and of developing country-specific formats for matrices and other templates in order to reflect national specificities.

30. The Committee should prioritize its interaction with States in all areas, given their responsibility for the implementation of Security Council resolution 1540 (2004). In so doing, the Committee should also adopt a tailored approach that took into account national specificities, resources and other capacities. In that context, the Committee should continue to work with those States that had not yet submitted their initial national reports on the implementation of the resolution. Moreover, it should prioritize the consideration and approval of requests for assistance from those countries most in need.

31. Cooperation between the Committee and other Security Council bodies should be organized in such a way as to uphold the Committee's specific non-proliferation role. Similarly, the Committee should adopt a specific approach in its efforts to identify individual spheres of cooperation with international and regional organizations and other multilateral bodies. In any case, such organizations and bodies must provide their assistance in close coordination with the Committee and any proposals made by them must be subject to its consideration and approval.

32. Intergovernmental organizations with the requisite expertise and resources should be requested to provide tailored assistance to States in the implementation of the resolution. Regional and multilateral bodies could also be requested to contribute to the implementation of the resolution, depending on their capacities and on regional specificities. Regional organizations and multilateral structures could also be particularly useful in the

development of best practices at the regional and subregional levels. However, the national efforts of Governments to work with industry and the public, pursuant to paragraph 8 (d) of the resolution, were currently sufficient.

33. His delegation looked forward to an active discussion of its proposals with a view to increasing the efficient implementation by the international community of Security Council resolution 1540 (2004).

34. **Mr. Simanjuntak** (Observer for Indonesia) welcomed the opportunity for increased interaction between members of the Security Council and the General Assembly and stressed that the best way to deal with collective challenges was through an internationally agreed framework. In the context of the ongoing comprehensive review, he suggested holding meetings at which each individual paragraph of Security Council resolution 1540 (2004) was discussed in turn.

35. **The Chairman**, summarizing the discussion, highlighted the importance of greater subregional, regional and international cooperation in the implementation of resolution 1540 (2004). National capacity-building was required in export and border controls. The Committee had noted the need to offer better tools related to assist countries in their implementation of resolution 1540 (2004).

The meeting rose at 5 p.m.